Rule 201. Scope and Application.

These rules shall govern the procedure in all municipal charter and ordinance violation cases in municipal courts in the state of Colorado. In the absence of a specific Rule, the court may look for guidance to the Colorado Rules of Criminal Procedure, the Colorado Rules of Civil Procedure, the Colorado Rules for Traffic Infractions, and any other rules or Chief Justice directives promulgated by the Colorado Supreme Court regarding the conduct of formal judicial proceedings.

Rule 204. Simplified Procedure for Trial of Municipal Charter and Ordinance Violations.

The following simplified procedure shall apply:

(a) Initiation of Prosecution.

(1) Prosecution of a violation under simplified procedure shall be commenced by:

(I) The issuance of a summons and complaint;

(II) The issuance of a summons following the filing of a complaint;

(III) The filing of a complaint following an arrest; or

(IV) The filing of a summons and complaint following arrest.

(b) Summons, Summons and Complaint — By Whom Issued; How Served; Failure to Appear; Contents; Amendment.

(1) Summons. Summons is issued by the clerk of the court following the filing of a sworn complaint when it appears from the complaint that there is probable cause to believe that a violation has been committed and that the defendant committed it. The summons need only contain the name of the defendant, the date, time, and place of appearance of the defendant. A copy of the complaint shall be served therewith, and a copy of the summons and the complaint shall be supplied to the prosecutor.

(2) Warrant. In lieu of a summons a warrant may be issued at the discretion of the court following the filing of a sworn complaint.

(3) Summons and Complaint. A summons and complaint may be issued by a peace officer for an offense constituting a violation which was committed in the peace officer's presence or, if not committed in the peace officer's presence, when the peace officer has reasonable grounds for believing that the offense was committed in fact and that the offense was committed by the person charged. A copy of the summons and complaint so issued shall be filed immediately with the court before which appearance is required. A second copy shall be supplied to the prosecutor if so requested.

(4) Contents of Complaint or Summons and Complaint. The complaint shall contain the name of the defendant; the date and approximate location of the offense; identification of the offense charged, citing the charter or ordinance section alleged to have been violated; and a brief statement or description of the offense charged, which statement or description shall be sufficient if it states the type of offense to which the charter or ordinance relates. The summons and complaint shall contain all the foregoing information and shall also direct the defendant to appear before a specified court at a stated date, time, and place, or in the office of the court clerk or violations bureau as provided in subsection (5) below.

(5) The summons or summons and complaint shall direct the defendant to appear before a specified court at a stated date, time, and place, or to appear or to respond at the office of the court clerk or violations bureau of a specified court at a stated date and time or within a stated period of time after service of said summons or summons and complaint.

(6) Amendment of complaint or summons and complaint. The court may permit a complaint or summons and complaint to be amended as to form or substance at any time prior to trial; the court may permit it to be amended as to form at any time before the verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

(c) Procedure After Initiation of Prosecution by Issuance of Summons or Summons and Complaint Without Arrest. Arraignment shall be conducted at the time of the defendant's first appearance in court in response to the direction to appear contained in the summons or summons and complaint, unless arraignment is continued as provided in Rule 210.

(d) Procedure After Initiation of Prosecution by Issuance of Complaint or Summons and Complaint Following Arrest.

(1) Any person arrested under a warrant issued upon a complaint, unless admitted to bail, shall be taken without unnecessary delay before a judge of the court which issued the warrant and shall be given a copy of the complaint and warrant. The defendant shall at such time be arraigned in accordance with the provisions of Rule 210, unless arraignment is continued as provided therein.

(2) A person arrested without a warrant for an offense constituting a municipal charter or ordinance violation shall either (i) be served with a summons and complaint and admitted to bail or released upon personal recognizance, or (ii) be taken without unnecessary delay before the judge, whereupon a complaint or summons and complaint shall be filed forthwith with the court and a copy served upon the accused person, unless earlier filed and served. The accused person shall at such time be arraigned in accordance with the provisions of Rule 210, unless arraignment is continued as provided therein.

(e) Service of Summons and Complaint. A copy of a summons or summons and complaint issued pursuant to these rules shall be served personally upon the defendant. In lieu of personal service, service may be made by leaving a copy of the summons or summons and complaint at the defendant's usual place of abode with some person over the age of eighteen years residing therein or by mailing a copy to the defendant's last known address by certified mail, return receipt requested, not less than 14 days prior to the time the defendant is required to appear. Service by mail shall be complete upon the return of the receipt signed by the defendant or signed on behalf of the defendant by one authorized by law to do so. Personal service shall be made by a peace officer or any disinterested party over the age of eighteen years.

Rule 210. Arraignment.

(a) In Court.

(1) Arraignment shall be held upon defendant's first appearance in court, unless defendant is granted a continuance to seek assistance of counsel, to determine which plea to enter, or for other good and sufficient reasons. The court shall advise each defendant of the right to have the arraignment continued upon request for good cause shown, and if no such request is made, the court may proceed with the arraignment.

(2) Arraignment shall be conducted in open court, and the defendant may appear in person, virtually or by counsel – as directed by the court. If a plea of guilty or no contest with the court's permission, is entered by counsel in the absence of the defendant or submitted in writing by an absent defendant and is accompanied by a signed advisement of rights and waiver, the court may enter sentence in the defendant's absence or command the appearance of the defendant in person for the imposition of sentence.

(3) Upon arraignment, the defendant or counsel shall be furnished with a copy of the complaint or summons and complaint if one has not been previously served.

(4) A defendant appearing without counsel at arraignment shall be advised by the court of the nature of the charges contained in the complaint and of the maximum penalty which the court may impose in the event of a conviction. In addition, at the first appearance of the defendant in court or upon arraignment, whichever is first in time, it is the duty of the judge to inform the defendant and make certain that the defendant understands the following:

(I) The defendant has a right to reasonable bail and informed of the conditions of bail as set by the court;

(II) To make no statement, and that any statement made can and may be used against the defendant;

(III) To be represented by counsel. If the defendant financially qualifies or for other good cause shown the court may assign counsel to represent the defendant as provided by law or applicable rule of criminal procedure;

(IV) To have subpoenas issued, without expense to the defendant, to compel the attendance of witnesses in defendant's behalf;

(V) To testify or not to testify in defendant's own behalf;

(VI) To a trial by jury where such right is granted by statute or ordinance, together with the requirement that the defendant, if desiring a jury trial, demand such trial by jury in writing within 21 days after arraignment or entry of a plea; also the number of jurors allowed by law, and of the requirement that the defendant, if desiring a jury trial, tender to the court within 21 days after

entry of a plea a jury fee of $25 unless the fee be waived by the judge because of the indigence of the defendant or refunded by the court pursuant to C.M.C.R. 223.

(VII) To appeal.

(VIII) Any plea the defendant makes must be voluntary on the defendant's part and not the result of any undue influence or coercion on the part of anyone.

(b) At Office of Court Clerk or Violations Bureau.

(1) Except where arraignment and immediate trial are available, the court, in order to eliminate unnecessary court appearances, may provide that a defendant desiring to enter a plea of not guilty may enter an appearance and such a plea at the clerk's office or violations bureau, in person or by counsel, and have the case assigned for trial at a future date. The clerk shall furnish notice of such entry of plea to the prosecutor without delay.

(2) Before a plea of guilty is received, the defendant shall be arraigned in court as provided in section (a) above, unless the offense is a civil violation or traffic infraction and is included in a uniform schedule of fines imposed by the court in accordance with the provisions of subsection (5) below, and the defendant elects such procedure.

(3) Under the conditions specified in subsection (4) herein, a court where authorized may establish a procedure for the payment to the court clerk or violations bureau according to a schedule of fines. In such matters the violations bureau shall act under the direction and control of the court.

(4) Any court subject to these rules may by order, which may from time to time be amended, supplemented, or repealed, designate the violations, the penalties for which may be paid at the office of the court clerk or violations bureau. In no event shall the order of reference, or any amendment or supplement thereto, designate for processing any of the following traffic offenses:

(I) Offenses resulting in an accident causing injury, death, or damage to the property of another;

(II) Careless Driving

(III) Reckless driving;

(IV) Exceeding the speed limit by more than twenty-four miles per hour;**(V)** Exhibition of speed or speed contest.

(VI) No insurance or no proof of insurance;

(VII) Eluding or attempting to elude;

(VIII) Any other traffic offense which jail may be a possible penalty as provided by law or applicable municipal ordinance.

(5) Schedule of Fines. The court, in addition to any other notice, by published order to be prominently posted in a place where fines are to be paid, shall specify by suitable schedules the amount of fines to be imposed for violations, designating each violation specifically in the schedules. Such fines shall be within the limits declared by ordinance. Fines and costs shall be paid to, receipted by, and accounted for by the violations clerk or court clerk in accordance with these rules.

Rule 212. Pleadings and Motions Before Trial.

(a) Pleadings and Motions. Pleadings shall consist of the complaint or summons and complaint and pleas of guilty, not guilty, or nolo contendere. All other pleas, demurrers, and motions to quash are abolished, and defenses and objections raised before trial which heretofore could have been raised by one or more of them shall be raised only by motion to dismiss or to grant appropriate relief, or as provided in these rules.

(b) ~~Oral or Written~~ Motions. ~~All~~ M~~m~~otions ~~shall~~ may be oral or written unless otherwise ordered by the court.

(c) Defenses and Objections Which May be Raised. Any defense or objection which is capable of determination without the trial of the general issue may be raised by motion.

(d) Defenses and Objections Which Must Be Raised. Defenses and objections based on defects in the institution of the prosecution or in the complaint or summons and complaint other than that it fails to show jurisdiction in the court or to charge an offense may be raised only by motion. The motion shall include all such defenses and objections then available to the defendant. Failure thus to present any such defense or objection constitutes a waiver of it, but the court for cause shown may grant relief from the waiver. Lack of jurisdiction or the failure of the complaint or summons and complaint to charge an offense shall be noticed by the court at any time during the proceeding.

(e) Time for Making Motion. The motion shall be made before trial, or within such other time frame as is established by the court. The court may require a response within a time frame as is established by the court.

(f) Hearing on Motion. A motion before trial raising defenses or objections under section (c) or (d) shall be determined before the day of trial unless the court orders that it be deferred for determination at or after the trial of the general issue.

(g) Effect of Determination. If a motion is determined adversely to the defendant, the defendant shall be permitted to plead if no plea has previously been made. A plea previously entered shall stand.

Rule 216. Discovery and Procedure Before Trial.

Definitions.

(1) "Defense", as used in this rule, means an attorney for the defendant, or a defendant if pro se.

Part I.

Disclosure to the Defense

(a) Prosecutor's Obligations.

(1) The prosecuting attorney shall make available to the defense the following material and information which is within the possession or control of the prosecuting attorney, and shall provide this material upon written request to the prosecution, and concerning the pending case:

(I) Police, arrest and crime or offense reports, including statements of all witnesses;

(II) Any video, dashboard camera recordings, and body worn camera recordings in connection with the case;

(III) Any reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons;

(IV) Any books, papers, documents, photographs or tangible objects held as evidence in connection with the case;

(V) Any record of prior criminal convictions of the accused, any codefendant or any person the prosecuting attorney intends to call as a witness in the case;

(VI) All tapes and transcripts of any electronic surveillance (including wiretaps) of conversations involving the accused, any codefendant or witness in the case;

(VII) The names and addresses of the witnesses then known to the prosecuting attorney whom the prosecution intends to call at trial;

(VIII) Any written or recorded statements of the accused or of a codefendant, and the substance of any oral statements made to the police or prosecution by the accused or by a codefendant, if the trial is to be a joint one.

(2) The prosecuting attorney shall disclose to the defense any material or information within their possession or control which tends to negate the guilt of

the accused as to the offense charged or would tend to reduce the punishment therefor.

(3) The prosecuting attorney's obligations under this section (a) extend to material and information in the possession or control of members of prosecuting attorney's staff and of any others who have participated in the investigation or evaluation of the case and who either regularly report, or with reference to the particular case have reported, to the prosecutor's office.

(b) Prosecutor's Performance of Obligations.

Unless otherwise ordered by the court, the following shall be the prosecuting attorney's obligations:

(1) The prosecuting attorney shall perform their obligations under subsections (a)(1)(I), (II), (IV), (VII), and (VIII), as soon as practicable but not later than 21 days after the defense submits a written discovery request to the prosecution office, except that portions of such reports claimed to be non-discoverable may be withheld pending a determination and ruling of the court under Part III but the defense must be notified in writing that information has not been disclosed.

(2) The prosecuting attorney shall perform their obligations under subsections (a)(1)(V) for criminal histories on lay witnesses that are intended to be called at trial upon the written request of the defendant. The defendant's request must be made no later than 21 days prior to trial. The prosecuting attorney is required to provide the criminal histories by no later than 14 days prior to trial. If the defendant does not make a written request, the prosecuting attorney does not need to provide the criminal histories. Requests for criminal histories by the defendant or disclosure by the prosecuting attorney after the deadlines will be granted only upon a finding of good cause for the delay.

(3) The prosecuting attorney shall perform all other obligations under subsection (a)(1) as soon as practicable but not later than 14 days before trial.

(4) The prosecuting attorney shall ensure that a flow of information is maintained between the various investigative personnel and the prosecuting attorney's office sufficient to place within the prosecuting attorney's possession or control all material and information relevant to the accused and the offense charged.

(5) The court may order that the prosecuting attorney provide to the defense a written list of names and addresses of the witnesses then known to the prosecuting attorney and whom the prosecution attends to call at trial:

(6) Nothing shall prohibit the court from making further orders consistent with this rule.

(c) Material Held by Other Governmental Personnel.

(1) Upon the defense's request and designation of material or information which would be discoverable if in the possession or control of the prosecuting attorney and which is in the possession or control of other governmental personnel, the prosecuting attorney shall use diligent good faith efforts to cause such material to be made available to the defense.

(2) The court shall issue suitable subpoenas or orders to cause such material to be made available to the defense, if the prosecuting attorney's efforts are unsuccessful and such material or other governmental personnel are subject to the jurisdiction of the court.

(d) Discretionary Disclosures.

(1) The court in its discretion may, upon motion, require disclosure to the defense of relevant material and information not covered by Parts I (a), (b), and (c), upon a showing by the defense that the request is reasonable.

(2) The court may deny disclosure authorized by this section if it finds that there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment, resulting from such disclosure, which outweighs any usefulness of the disclosure to the defense.

(3) Where the interests of justice would be served, the court may order the prosecution to disclose the underlying facts or data supporting the opinion in that particular case of an expert endorsed as a witness. If a report has not been prepared by that expert to aid in compliance with other discovery obligations of this rule, the court may order the party calling that expert to provide a written summary of the testimony describing the witness's opinions and the bases and reasons therefor, including results of physical or mental examination and of scientific tests, experiments, or comparisons. The intent of this section is to allow the defense sufficient meaningful information to conduct effective cross-examination under *CRE 705* .

(e) Matters not Subject to Disclosure.

(1) Work Product. Disclosure shall not be required of legal research or of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the prosecuting attorney or members of his legal staff.

(2) Informants. Disclosure shall not be required of an informant's identity where the informant's identity is a prosecution secret and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure shall not be denied hereunder of the identity of witnesses to be produced at a hearing or trial.

Part II.

Disclosure to Prosecution

(a) The Person of the Accused.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, upon request of the prosecuting attorney, the court may require the accused to give any nontestimonial identification as provided in Colo. Crim. P. 41.1 (h)(2).

(2) Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the prosecuting attorney to the accused and their counsel. Provision may be made for appearance for such purposes in an order admitting the accused to bail or providing for the defendant's release.

(b) Medical and Scientific Reports.

(1) Subject to constitutional limitations, the trial court may require that the prosecuting attorney be informed of and permitted to inspect and copy or photograph any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

(2) Subject to constitutional limitations, and where the interests of justice would be served, the court may order the defense to disclose the underlying facts or data supporting the opinion in that particular case of an expert endorsed as a witness. If a report has not been prepared by that expert to aid in compliance with other discovery obligations of this rule, the court may order the party calling that expert to provide a written summary of the testimony describing the witness's opinions and the bases and reasons therefor, including results of physical or mental examinations and of scientific tests, experiments, or comparisons. The intent of this section is to allow the prosecution sufficient meaningful information to conduct effective cross-examination under *CRE 705*.

(c) Nature of Defense.

Subject to constitutional limitations, the defense shall disclose to the prosecution the nature of any defense, other than alibi, which the defense intends to use at trial. The defense shall also disclose the names and addresses of persons whom the defense intends to call as witnesses at trial upon written request from the prosecuting attorney or order of the court. At the entry of the not guilty plea, the court shall set a deadline for such disclosure. In no case shall such disclosure be less than 7 days before trial, except for good cause shown. Upon receipt of the information required by this subsection (c), the prosecuting attorney shall notify

the defense of any additional witnesses which the prosecution intends to call to rebut such defense within a reasonable time after their identity becomes known.

(d) Notice of Alibi.

The defense, if it intends to introduce evidence that the defendant was at a place other than the location of the offense, shall serve upon the prosecuting attorney as soon as practicable but not later than 21 days before trial a statement in writing specifying the place where he or she claims to have been and the names and addresses of the witnesses he or she will call to support the defense of alibi. Upon receiving this statement, the prosecuting attorney shall advise the defense of the names and addresses of any additional witnesses who may be called to refute such alibi as soon as practicable after their names become known. Neither the prosecuting attorney nor the defense shall be permitted at the trial to introduce evidence inconsistent with the specification, unless the court for good cause and upon just terms permits the specification to be amended. If the defense fails to make the specification required by this section, the court shall exclude evidence in his behalf that he or she was at a place other than that specified by the prosecuting attorney unless the court is satisfied upon good cause shown that such evidence should be admitted.

Part III.

Regulation of Discovery

(a) Investigation Not to be Impeded.

Subject to the provisions of Parts I (d) and III (d), neither the prosecuting attorney, the defense counsel, the defendant nor other prosecution or defense personnel shall advise persons having relevant material or information (except the defendant) to refrain from discussing the case or with showing any relevant material to any party, counsel or their agent, nor shall they otherwise impede counsel's investigation of the case. The court shall determine that the parties are aware of the provision.

(b) Continuing Duty to Disclose.

If, subsequent to compliance with these standards or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, including the names and addresses of any additional witnesses who have become known or the materiality of whose testimony has become known to the prosecuting attorney after making available the written list required in part I (a)(1)(VII), he or she shall promptly notify the opposing party or their counsel of the existence of such additional material, and if the additional material or information is discovered during trial, the court shall also be notified.

(c) Custody of Materials.

Materials furnished in discovery pursuant to this rule may only be used for purposes of preparation and trial of the case and may only be provided to others and used by them for purposes of preparation and trial of the case, and shall be subject to such other terms, conditions or restrictions as the court, statutes or rules may provide. Defense counsel is not required to provide actual copies of discovery to their client if defense counsel reasonably believes that it would not be in the client's interest, and other methods of having the client review discovery are available. An attorney may also use materials he or she receives in discovery for the purposes of educational presentations if all identifying information is first removed.

(d) Protective Orders.

With regard to all matters of discovery under this rule, upon a showing of cause, the court may at any time order that specified disclosures be restricted or deferred, or make such other order as is appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit the party to make beneficial use thereof.

(e) Excision.

(1) When some parts of certain material are discoverable under the provisions of these court rules, and other parts are not discoverable, the nondiscoverable material may be excised and the remainder made available in accordance with the applicable provisions of these rules.

(2) Material excised pursuant to judicial order shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(f) In Camera Proceedings.

Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosures, or portion of such showing, to be made in camera. A record shall be made of such proceedings. If the court enters an order granting relief following a showing in camera, the entire record of such showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(g) Failure to Comply; Sanctions.

The parties shall make a good faith effort to meet and confer about all discoverable materials, any outstanding discovery, and any issues regarding discovery before involving the court. If at any time during the course of the proceedings the court finds that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance,

prohibit the party from introducing in evidence the material not disclosed or enter such other order as it deems just under the circumstances.

Part IV.

Time Schedules and Discovery Procedures

(a) Time Schedule.

(1) Regarding the use and timing of electronic discovery.

(i) The prosecutor may perform their obligations by use of a statewide discovery sharing system as established pursuant to *16-9-702, C.R.S.*

(ii) When utilizing such system the prosecutor's obligations to make discovery available to the defense as required by Part I are fulfilled when any such material or information is made available for electronic download to defense counsel, defense counsel's designee or a municipal public defender's office.

(2) If either the prosecuting attorney or the defense claims that discoverable material under this rule was not furnished, was incomplete, was illegible or otherwise failed to satisfy this rule, or if claim is made that discretionary disclosures pursuant to Part I (d) should be made, the prosecuting attorney or the defense may file a motion concerning these matters and the motion shall be promptly heard by the court.

(3) For good cause, the court may, on motion of either party or its own motion, alter the time for all matters relating to discovery under this rule.

(b) Cost and Location of Discovery.

(1) The prosecution's costs of providing any discoverable material electronically to the defense shall be funded as set forth in *section 16-9-702 (2), C.R.S.* The prosecution shall not charge for discovery provided through a statewide discovery sharing system. For any materials provided to the prosecution as part of the defense discovery obligation, the cost shall be borne by the prosecution based on the actual cost of duplication. Copies of any discovery provided to a defendant by court appointed counsel shall be paid for by the defendant.

(2) The prosecution may request reasonable costs for discovery that is not provided through a statewide discovery sharing system.

(3) The place of discovery for materials not capable of being provided electronically shall be at the office of the party furnishing it, or at a mutually agreeable location.

(4) Nothing in this rule prohibits providing discovery through U.S. mail, electronic mail, delivery service, courier, in-person, or other equivalent means.

Rule 223. Trial by Jury or by the Court.

(a) Trial by Jury. Trial shall be to the court, unless the defendant is entitled to a jury trial under the constitution, ordinance, charter, general laws of the state, or the offense carries the possible penalty of imprisonment, in which case the defendant shall have a jury, if, no later than 21 days after entry of a not guilty plea, the defendant files with the court a written jury demand and at the same time tenders to that court a jury fee of $25, unless the fee is waived by the judge because of the indigence of the defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant, having paid the jury fee, files with the court at least 7 days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded. A defendant who fails to file with the court the written jury demand as provided above waives the right to a jury trial unless good cause is shown.

(b) Numbers of Jurors. When a jury trial is granted pursuant to section (a) of this Rule, the jury shall consist of three jurors unless a greater number, not to exceed six, is requested by the defendant in the jury demand.

(c) Trial Without a Jury. In a case tried without a jury, the court shall make a general finding and in addition on request shall make oral findings of fact and conclusions of law.

Rule 237.1. Interlocutory Appeals

(a) Grounds. The prosecuting attorney may file an interlocutory appeal in the district court from a ruling of a municipal court granting a motion made in advance of trial by the defendant for return of property and to suppress evidence or granting a motion to suppress evidence or granting a motion to suppress an extra-judicial confession or admission; provided that the prosecuting attorney certifies to the judge who granted such motion and to the district court that the appeal is not taken for purposes of delay and that the evidence is a substantial part of the proof of the charge pending against the defendant.

(b) Filing Notice of Appeal. The prosecuting attorney shall file the notice of appeal with the clerk of the district court and shall serve the defendant and the clerk of the trial court with a copy thereof. Such notice of appeal shall be filed within 14 days of the entry of the order being appealed and any docket fee shall be paid at the time of the filing.

(c) Contents of Record on Appeal. The record for an interlocutory appeal shall consist of the complaint, the motions filed by the defendant or defendants and the grounds stated in section (a) above, a transcript of all testimony taken at the hearing on said motions and such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in C.A.R. 11(b) pertaining to exhibits of bulk), the order of court ruling on said motions and the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial. The record shall be filed within 14 days of the date of filing the notice of appeal, and may be supplemented by order of the district court.

(d) Briefs. Within 14 days after the record has been filed in the district court, the prosecuting attorney shall file an opening brief. Within 14 days after service of said opening brief, the defendant shall file an answer brief, and the prosecuting attorney shall have 7 days after service of said answer brief to file a reply brief.

(e) Disposition of Cause. Unless oral argument is ordered by the court and it rules on the record and in the presence of the parties, the decision of the court shall be by written opinion, copies of which shall be transmitted by the clerk of the court by mail to the trial judge and to all parties. No petition for rehearing shall be permitted. A certified copy of the judgment and directions to the county court, and a copy of the written opinion, if any, shall constitute the mandate of the district court, concluding the appeal and restoring jurisdiction to the county court. Such mandate shall issue and be transmitted by the clerk of the court by mail to the trial judge and all parties on the 44th day after the district court's oral or written order, unless the district court is given notice by one of the parties that it has sought further review by the supreme court upon a writ of certiorari pursuant to the rules of that court, in which case the mandate shall issue upon notification that certiorari has been denied or upon receiving the remittitur of the supreme court.

(f) Time. The time limits herein may only be enlarged by order of the appropriate court before the existing time limit has expired.

(g) If no procedure is specifically prescribed by this rule, the court shall look to the Rules of Appellate Procedure for guidance.

(h) Nothing in this Rule 237.1 shall be construed to deprive the municipal court of jurisdiction to consider bail issues during the pendency of the interlocutory appeal.

Rule 239. Stays

The filing of an interlocutory appeal or an appeal from an order that dismisses one or more counts of a charging document prior to trial automatically stays all proceedings until final determination of the appeal, unless the appellate court lifts such stay in whole or in part.

Rule 241. Search and Seizure.

(a) Authority to Issue Warrant. A judge of any court shall have power to issue a search warrant under this Rule when it relates to a charter or ordinance violation.

(b) Grounds for Issuance.

(1) A search warrant may be issued to search for and seize property which is located within the municipality and which:

(I) Is designated or intended for use in committing a charter or ordinance violation;

(II) Has been used as a means of committing a charter or ordinance violation; or

(III) The possession of which is prohibited by charter or ordinance.

(2) A search warrant may be issued for the inspection of private premises by an authorized public inspector upon showing that:

(I) The premises are located within the municipality;

(II) The inspection is required or authorized by charter or ordinance in the interest of public safety; and

(III) The owner or occupant of such private premises has refused entry to the public inspector, or the premises are locked and the public inspector has been unable to obtain permission of the owner or occupant to enter. This rule shall not be construed to require the issuance of a warrant for emergency inspections, or in any other case where warrants are not presently required by law.

(c) Issuance and Contents. A search warrant shall issue only on affidavit sworn to or affirmed before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist, or that there is probable cause to believe that they exist, the judge shall issue a search warrant identifying the property and naming or describing the person or place to be searched. The search warrant shall be directed to any officer authorized by law to execute it in the municipality wherein the property is located. It shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof. It shall command the officer to search forthwith the person or place named for any property specified. The search warrant shall direct that it be served in the daytime, but if the affidavits are positive that the property is on the person or in the place to be searched, the warrant may direct that it be served at any time. It shall designate the judge to whom it shall be returned.

(d) Execution and Return With Inventory. The search warrant may be executed and returned only within 14 days after its date. The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and receipt for any property taken or shall leave the copy and receipt at the place from which the property was taken. The return shall be made promptly and shall be accompanied by a written

inventory of any property taken. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the applicant for the warrant for the person from whose possession or premises the property was taken, and shall be verified by the officer. The judge upon request shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(e) Motion for Return of Property and to Suppress Evidence. A person aggrieved by unlawful search and seizure may move the municipal court for the municipality where property was seized for the return of the property and to suppress for use as evidence anything so obtained on the ground that:

(1) The property was illegally seized without warrant;

(2) The warrant is insufficient on its face;

(3) The property seized is not that described in the warrant;

(4) There was not probable cause for believing the existence of the grounds on which the warrant was issued;

(5) The warrant was illegally executed.

The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial. The motion to suppress evidence may also be made in the court where the trial is to be had. The motion shall be made before trial or hearing unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.

(f) Scope and Definition. This Rule does not modify any statute inconsistent with it regulating search, seizure, and the issuance and execution of search warrants in circumstances for which special provision is made.

Rule 248. Dismissal.

(a) By the Prosecution. No case pending in any court shall be dismissed or a nolle prosequi entered unless upon a motion by the prosecution and with the court's consent and approval. Such a motion shall be supported by a statement concisely stating the reasons for the action. Such a dismissal may not be entered during the trial without the defendant having an opportunity to object.

(b) By the Court.

(1) Except as otherwise provided in this Rule, if a defendant is not brought to trial on the issues raised by the complaint within 91 days from the entry of a plea of not guilty, the defendant shall be discharged from custody if the defendant has not been admitted to bail, the pending charges shall be dismissed, whether the defendant is in custody or on bail, and the defendant shall not again be charged for the same offense, or for another offense based upon the same act or series of acts arising out of the same criminal episode.

(2) If trial results in conviction which is reversed on appeal, any new trial must be commenced within 91 days after the date of the receipt by the trial court of the mandate from the appellate court.

(3) If a trial date has been fixed by the court, and thereafter the defendant requests and is granted a continuance for trial, the trial shall be commenced within 91 days of the date the continuance is granted.

(3.5) If the defendant fails to appear on the trial date fixed by the court, or for a pre-trial status conference to determine trial readiness, the defendant shall be brought to trial within 91 days of their next appearance.

(4) If a trial date has been fixed by the court, and thereafter the prosecuting attorney requests and is granted a continuance, the time is not thereby extended within which the trial shall be had, as is provided in subsection (b)(1) of this Rule, unless the defendant in person or by their counsel in open court of record expressly agrees to the continuance. The time for trial, in the event of such agreement, is then extended by the number of days intervening between the granting of such continuance and the date to which trial is continued.

(5) To be entitled to a dismissal under subsection (b)(1) of this Rule, the defendant must move for dismissal prior to the commencement of trial or the entry of a plea of guilty to the charge or an included offense. Failure so to move is a waiver of the defendant's rights under this section.

(5.5) If a trial date is offered by the court and neither the defendant nor counsel contemporaneously object to the offered date as beyond the time within which the defendant must be brought to trial under this Rule, then the period within which trial shall be had is extended until such trial date and may be extended further pursuant to any other applicable provision of this Rule.

(6) In computing the time within which a defendant shall be brought to trial as provided in subsection (b)(1) of this Rule, the following periods of time shall be excluded:

I. Any period during which the defendant is unable to appear by reason of illness or physical disability or is under observation or examination at any time after the issue of insanity or incompetency is raised;

II. The period of delay caused by an interlocutory appeal, an appeal from an order that dismisses one or more counts of a charging document prior to trial, or after issuance of a rule to show cause in an original action brought under Colorado Appellate Rule 21, whether commenced by the defendant or by the prosecution;

III. A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and there is good cause for not granting a severance;

IV. The period of delay resulting from the voluntary absence or unavailability of the defendant; however, a defendant shall be considered unavailable whenever the defendant's whereabouts are known but the defendant's presence for trial cannot be obtained, or the defendant resists being returned to the jurisdiction for trial;

V. The period of delay caused by any mistrial, not to exceed 91 days for each mistrial;

VI. The period of delay caused at the instance of the defendant;

VII. The period of delay not exceeding 42 days resulting from a continuance granted at the request of the prosecuting attorney, without the consent of the defendant, if:

(A) The continuance is necessitated by the unavailability of an essential witness or evidence material to the prosecution's case, when the prosecuting attorney has exercised due diligence to obtain such witness or evidence and there are reasonable grounds to believe that such witness or evidence will be available at the later date;

(B) No Colorado Rule.

VIII. The period of delay between the new date set for trial following the expiration of the time periods excluded by paragraphs (I), (II), (III), (IV), and (V) of this subsection (6), not to exceed 91 days.

IX. No Colorado Rule.

X. Any period of delay caused by an unscheduled court closure, or a public health emergency or natural disaster declared by a Local, State or Federal Government.

(7) No Colorado Rule.

(8) If a trial date has been fixed by the court and the prosecution thereafter is granted permission to add an additional charge or charges, the defendant shall be brought to trial on all charges within 91 days of entry of a not guilty plea on the added charge or charges.