

North Dakota Supreme Court
Judiciary Standards Committee
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Honorable William Severin, Chair
Municipal Court Judge
411 N. 4th St.
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April 4, 2014

Honorable Gerald W. VandeWalle
Chief Justice
North Dakota Supreme Court
600 E. Boulevard, Dept 180
Bismarck, ND 58505-0530

Re: **Administrative Rule 30 - Minimum Standards for Municipal Courts in North Dakota -
Certificate of Compliance - Proposed Amendments**

Dear Chief Justice VandeWalle:

Following a referral by the Supreme Court, the Judiciary Standards Committee has reviewed Administrative Rule 30, which establishes minimum standards for municipal courts in the state. The referral noted that the rule had not been reviewed by a standing committee for several years. The Committee was also aware that there have been occasional problems with timely submission of the certificate of compliance required under the rule.

The Committee reviewed Administrative Rule 30 and the related certificate of compliance at two meetings and discussed possible changes to the rule and certificate form. The Committee also reviewed municipal judge salary information for selected cities which was compiled by Mandan Municipal Judge DeNae Kautzmann. Following its review, the Committee proposes several amendments to the rule and the certificate form. The proposed amendments are summarized below.

Administrative Rule 30 - Proposed Amendments.

Section 1. Authority. Technical amendments to Section 1 are proposed to reflect standard citation formats.

Section 2. Statement of Policy. There are no proposed amendments to this section.

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Section 3. Mandatory Minimum Standards. Current Section 3 requires that a municipality provide the municipal judge with copies of various legal resources. The Committee concluded the section should be amended to reflect the advent of technology and the Internet availability of most of the legal resources.

The Committee proposes new Section 3A to require that the municipality must ensure the court has access to the identified legal resources. The general requirement would permit a city to provide access either through hard copy versions of the legal resources or by providing the court with access to the Internet.

The Committee also proposes new Section 3B, which is relocated from current Section 4(e) with one addition. Section 4 generally sets out "recommended" minimum standards with respect to various items. Section 4(e) identifies standards related to courtroom space and furnishings. The Committee concluded these "recommended" minimums should be basic requirements for an effectively functioning courtroom. Consequently, the Committee proposes these standards be included in new Section 3B as "mandatory" minimum standards. The Committee also proposes an additional standard item at Section 3B(10) - technology resources sufficient to meet the needs of the court. This item recognizes the advancing impact of technology in courtroom operation but would allow a city to determine the scope of resources that might be needed.

The Committee proposes relocating current Section 3(f) related to municipal judge education to a new freestanding Section 5. The language is modified to include a more accurate reference to the Judicial Branch Education Commission and to reflect a standard citation format.

Section 4. Recommended Minimum Standards. As previously noted, the Committee reviewed salary information compiled by Mandan Municipal Judge DeNae Kautzmann. The Committee was also aware of concerns expressed by municipal judges regarding the recommended salary amounts set out in Section 4. The Committee agreed the amounts required attention as they apparently had not been modified since the rule was adopted.

The Committee proposes amendments to Section 4(a) to adjust the salary amounts to at least reflect the rate of inflation. The recommended amounts were calculated using the Bureau of Labor Statistics CPI Inflation Calculator.

As explained above, Section 4(e) would be relocated to Section 3.

A minor amendment to Section 4(g)(8) is proposed to reflect that a municipal court budget should include funds for telephone "and technology" expenses. This amendment is proposed to reflect the role of technology in courtroom operations.

Section 5. Continuing Education of Municipal Court Judges. This new section is relocated from current Section 3(f).

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Section 6. Certification of Compliance. The Committee discussed concerns related to the occasional failure by some municipal judges to return certificates of compliance in a timely manner. Various methods of enhancing compliance were discussed. The Committee concluded that an effective way to facilitate prompt compliance may be to distribute the certificates for completion at the yearly municipal judge education seminar. This recommendation was conveyed to Lee Ann Barnhardt, Director of Judicial Education, and it appears to be an approach that can be easily implemented. To aid in this effort, the Committee proposes amending Section 6 to require certification before January 1 of each year.

Certificate of Compliance - Proposed Amendments. The Committee reviewed the current Certificate of Compliance form and proposes essentially technical amendments. More notable are the proposed amendments to #2, which addresses "compliance" with the recommended minimum standards in Section 4. The language would be modified to more accurately reflect the requirement of the Certification of Compliance section, which is that the judge must certify that court is "making its best efforts, in cooperation with city government" to meet the recommended minimum standards.

The Judiciary Standards Committee voted to submit the proposed amendments to Administrative Rule 30 and the certificate of compliance form to the Supreme Court for its consideration. If I can be of any assistance in the Supreme Court's review of the proposed amendments, please do not hesitate to contact me.

Sincerely,



William C. Severin, Chair
Judiciary Standards Committee

Enclosures

cc: Penny Miller, Clerk of the Supreme Court
Jim Ganje

PROPOSED AMENDMENTS

*AR 30 amended
Effective January 1, 1991*

MINIMUM STANDARDS FOR MUNICIPAL COURTS IN NORTH DAKOTA

Administrative
Rule 30

1 Section 1. Authority.

2 Pursuant to ~~Article VI, Section 3, North Dakota Constitution~~ Under N.D. Const. Art. VI, §3,
3 and consistent with ~~Section 27-02-05.1 and Section 27-01-01, NDCC~~ N.D.C.C. §§27-01-01 and
4 27-02-05.1, the Supreme Court hereby adopts the following Administrative Rule relating to
5 minimum standards for municipal courts in North Dakota (~~Chapter 40-18, NDCC~~ N.D.C.C. ch.40-
6 18).

7 Section 2. Statement of Policy.

8 It is the policy of the North Dakota Judicial System to provide minimum standards and
9 greater uniformity in municipal court services in North Dakota in order to protect the independence
10 of municipal court judges in their decisions in individual cases.

11 Section 3. Mandatory Minimum Standards.

12 ~~The following minimum standards are mandatory for all municipal courts in North Dakota~~

13 A. Each municipality in which a municipal court is established shall ensure the court has
14 access to current versions of the following:

- 1 a. ~~*Municipal Ordinances.*~~ Each municipality shall provide the municipal court judge
2 with a A complete set of current, properly legislated municipal ordinances.
- 3 b. ~~*North Dakota Rules of Judicial Conduct.*~~ Each municipality shall provide the
4 municipal court judge with a current copy of the The North Dakota Rules Code of
5 Judicial Conduct.
- 6 c. ~~*North Dakota Rules of Criminal Procedure.*~~ Each municipality shall provide the
7 municipal court judge with a current copy of the The North Dakota Rules of Criminal
8 Procedure.
- 9 d. ~~*Municipal Court Benchbook.*~~ Each municipality shall provide the municipal court
10 judge with a current copy of the The North Dakota Municipal Court Benchbook.
- 11 e. ~~*North Dakota Century Code.*~~ Each municipality shall provide the municipal court
12 with a current copy of North Dakota Century Code Chapter 39-08, Chapter 40-18,
13 and Title 12.1 of the North Dakota Century Code.
- 14 f. ~~*Continuing Education of Municipal Court Judges.*~~ Each municipality shall provide
15 for reimbursement of the expenses for travel and lodging for municipal court judges
16 and alternate municipal court judges to attend the training programs provided by the
17 State Court Administrator pursuant to Section 40-18-22, NDCC.

18 B. Each municipality shall provide the municipal court judge with access to a formal
19 courtroom or a space clearly designated as a courtroom. Each courtroom must be furnished with at
20 least the following:

- 21 (1) One judge's desk.
- 22 (2) One judge's chair.

- 1 (3) One witness chair.
 2 (4) One full-size, free standing American flag.
 3 (5) One full-size, free standing North Dakota flag.
 4 (6) One gavel.
 5 (7) Table space and three chairs for defendant.
 6 (8) Table space and three chairs for prosecutor.
 7 (9) Adequate chairs for the public.
 8 (10) Technology resources sufficient to meet the needs of the court.
 9 Each courtroom or designated space must have a separation between the public and court
 10 participants, accomplished by chair placement or a railing.

11 **Section 4. Recommended Minimum Standards.**

12 The following minimum standards are strongly recommended for all municipal courts:

- 13 a. Judge Compensation. Each municipality should provide judicial compensation
 14 which is not less than the following standards:

15 City by Population Size	Minimum Annual Salary	Minimum Monthly Salary
16 Cities Over 10,000 17 Population	\$ 10,000 <u>17,172</u>	\$ 833 <u>1,431</u>
18 Cities Between 5,000 and 19 10,000 Population	\$ 6,000 <u>10,308</u>	\$ 500 <u>859</u>

1	Cities Between 3,000 and	\$ 2,400 <u>4,116</u>	\$ 200 <u>343</u>
2	5,000 Population		
3	Cities Between 1,500 and	\$ 1,800 <u>3,096</u>	\$ 150 <u>258</u>
4	3,000 Population		
5	Cities Below 1,500	\$ 1,200 <u>2,064</u>	\$ 100 <u>172</u>
6	Population		

7 b. Support Clerk Services. Each municipality should provide the municipal court judge
8 in a city over 10,000 population with the assistance of one full-time, separately
9 compensated, clerk of municipal court.

10 c. Prosecution Services. Each municipality should provide for prosecution of each
11 contested case by a city attorney in municipal court.

12 d. Bail Bond Procedure. Each municipal court judge should prepare a written bail
13 schedule and procedure which shall be publicly posted in the courtroom and in the
14 police department.

15 e. Judicial Facilities. ~~Each municipality should provide the municipal court judge with~~
16 ~~access to a formal courtroom or a space clearly designated as a courtroom. Each~~
17 ~~courtroom shall be furnished with a minimum of the following:~~

- 18 (1) ~~One judge's desk.~~
- 19 (2) ~~One judge's chair.~~
- 20 (3) ~~One witness chair.~~
- 21 (4) ~~One full-size, free-standing American flag.~~

- 1 (5) ~~One full-size, free-standing North Dakota flag.~~
- 2 (6) ~~One gavel.~~
- 3 (7) ~~Table space and three chairs for defendant.~~
- 4 (8) ~~Table space and three chairs for prosecutor.~~
- 5 (9) ~~Adequate chairs for the public.~~

6 Each courtroom or designated space should have a separation between the public and
7 court participants, accomplished by chair placement or a railing.

8 f. e. Judicial Robe. If requested by the municipal court judge, each municipality should
9 furnish the municipal court judge with a judicial robe which is suitable to identify
10 and enhance the dignity of court proceedings.

11 g. f. Standardized Forms and Record Keeping. Each municipality should provide the
12 municipal court judge with court forms and record keeping equipment and supplies
13 as identified by the State Court Administrator.

14 h. g. Municipal Court Budgets. Each municipality should provide the municipal court
15 judge with a separate municipal court budget. The municipal court budget should
16 include appropriate funds for the following:

- 17 (1) Judge compensation.
- 18 (2) Clerk compensation, if applicable.
- 19 (3) Supplies.
- 20 (4) Equipment.
- 21 (5) Courtroom furnishings.
- 22 (6) Travel expenses.
- 23 (7) Professional memberships and subscriptions.

1 (8) Telephone and technology expenses.

2 **Section 5. Continuing Education of Municipal Court Judges.**

3 Each municipality shall provide reimbursement of travel and lodging expenses for municipal
 4 court judges and alternate municipal court judges to attend training programs provided by the
 5 Judicial Branch Education Commission in accordance with N.D. Sup. Ct. Admin. R. 36 and
 6 N.D.C.C. §40-18-22.

7 **Section 5 6. Certification of Compliance.**

8 ~~Before holding court in any calendar~~ January 1 of each year, the judge of each municipal
 9 court shall certify to the State Court Administrator that the municipal court meets the minimum
 10 standards in Section 3 and has made its best efforts, in cooperation with city government, to meet
 11 the minimum standards in Section 4. A municipal judge should not hold court until compliance with
 12 this certification requirement has ~~not~~ been met.

13 **Section 6 7. Effective Date.**

14 The effective date of this Rule is ~~January 1, 1991~~ _____.

15 SOURCE: Supreme Court No. 900157; March 16, 1990, minutes of the Judicial Planning
 16 Committee; December 13, 2013, and March 21, 2014, minutes of Judiciary Standards Committee.

17 [Adopted effective ~~January 1, 1991~~ _____.]

PROPOSED AMENDMENTS

Certificate of Compliance

1 I, _____, Judge of the Municipal Court for the City of _____,
2 hereby certify as follows:

3 1. The municipal court of the city of _____,
4 _____ is in compliance
5 _____ is not in compliance*
6 with ~~Section 3~~ of the mandatory minimum standards for municipal courts established
7 in North ~~Dakota~~ pursuant to Section 3 of Administrative Rule 30.

8 2. The municipal court of the city of _____.
9 _____ is ~~in compliance~~
10 _____ is not ~~in compliance~~*
11 ~~With Section 4 of~~ making its best efforts, in cooperation with city government, to
12 meet the recommended minimum standards for municipal courts established in North
13 ~~Dakota~~ pursuant to Section 4 of Administrative Rule 30.

14 Dated and signed this _____ day of _____, _____.

15 _____
16 Signature of Judge

17 *If not in compliance, specify below why and what is being done to get in compliance ~~in the space~~
18 provided below:

19 _____
20 _____
21 _____