The Delaware Municipal Court
Local Rules of Practice



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DELAWARE MUNICIPAL COURT – LOCAL COURT RULES

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GENERAL PROVISIONS

Rule 1.01. Scope and Effective Date.

(A) The Delaware Municipal Court (hereinafter "Court") adopts the following local rules in accordance with Article IV, Section 5(B) of the Ohio Constitution, Rule 5 of the Ohio Rules of Superintendence, Rule 83 of the Ohio Rules of Civil Procedure, Rule 57 of the Ohio Rules of Criminal Procedure and Rule 19 of the Ohio Traffic Rules.

(B) Wherever any local rule is inconsistent with any rule promulgated by the Ohio Supreme Court, the rule promulgated by the Ohio Supreme Court shall govern.

(C) These rules are adopted to promote the administration of justice, facilitate the timely disposition of cases, and serve the public interest.

(D) These local rules are effective as of _____, and supersede any local rules previously promulgated by this Court.

Rule 1.02. Location & Hours of Operation.

(A) This Court is located at 70 North Union Street, Second Floor, Delaware, Ohio 43015. The Court's primary telephone number is 740-203-1550. The Court's website is located at www.municipalcourt.org.

(B) The Clerk of Court's office shall be open for business between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(C) Notwithstanding the Clerk's hours, Court sessions may be conducted during the evening and/or weekend hours by Order of the Court.

(D) The Court is closed on certain holidays and such other days as ordered by the Court. A list of holidays that the Court is closed shall be available on the Court's website.

Rule 1.03. Jurisdiction.

(A) The territorial jurisdiction of this Court includes all of Delaware County, Ohio. This Court and the Franklin County Municipal Court have concurrent territorial jurisdiction in the portions of Columbus, Ohio that are within Delaware County.

(B) The monetary jurisdictions of this Court are set pursuant to R.C. 1901.17 and 1925.02.

Rule 1.04. Request for Interpreter.

(A) A party requesting a court-appointed interpreter for the party and/or a witness shall make a written request to the Court as soon as practicable before the date of the trial or hearing. The

party may prevent unnecessary delay by including a request for an interpreter with any initial filing.

(B) If a victim is limited English proficient or non-English speaking, Counsel for the State of Ohio or the Victim's Advocate shall submit a written request to the Court as soon as practicable requesting a court-appointed interpreter.

(C) Absent a request for an interpreter, the Court may independently conclude that a party, witness, or victim is limited English proficient or non-English speaking and determine that the services of an interpreter are necessary to ensure meaningful participation.

(D) If the Court determines that the service of an interpreter is required, the Court will follow the requirements set forth in Sup.R. 88 in selecting an interpreter.

(E) In a civil case, unless otherwise ordered by the Court, the expenses for the interpreter shall be taxed as a part of the costs allowed to the prevailing party.

(F) In criminal cases, unless otherwise ordered by the Court, expenses for the interpreter shall be paid by the Court.

Rule 1.05. Mechanical Requirements for Documents Filed with the Court.

(A) All documents filed with the Court shall be legible, filed on paginated paper sized 8.5 inches by 11 inches, and securely bound at the top. The margin at the top of each page shall be at least one (1) inch to allow the Clerk to file-stamp and punch holes without obscuring the text of the document. The Clerk shall not, to the extent practicable, obscure text with the file-stamp.

(B) (1) The caption of any complaint shall state the name and address, if known, of each party.

(2) Subsequent documents filed in a case shall state the case number, the name of the first party plaintiff and the first party defendant. For all subsequent documents in which new parties are joined, the name and address, if known, of each new party shall be stated in the caption of the document.

(C) Every document filed in a case shall be identified by title, and shall bear the signature, name, address, telephone number, and e-mail address of the individual filing the document. Any change in contact information shall be made by filing a separate document, specifically identified as a change in contact information.

(D) Except as otherwise provided in the Ohio Criminal and Civil Rules, all documents filed in a case must be served upon the opposing counsel, or if a party is not represented, then upon the opposing party. Proof of service must be endorsed on the documents separately.

(E) Failure to comply with the formal requirements in these rules may be grounds for striking the non-complying documents.

(F) For good cause shown, the Clerk is authorized to waive the requirements of this rule for cases involving small claims, forcible entry and detainer, or other types of cases or proceedings in the interest of justice when the party is not represented by counsel. The Clerk may also file requests by letter in traffic and criminal cases regarding continuances and other similar requests.

Rule 1.06. Continuances.

(A) Every request for a continuance shall be filed as a written motion and will only be granted upon a showing of good cause. The motion for continuance shall be served on the opposing counsel or the opposing party on the date the document is submitted for filing.

(B) The motion for continuance shall be filed with the Court not fewer than seven (7) business days prior to a trial or hearing date in a civil case; and not fewer than two (2) business days prior to the date of trial or hearing in a criminal/traffic case. In the case of an unforeseen emergency, these time requirements may be waived. Whether facts present an "emergency" is within the discretion of the Court.

(C) All motions for continuance shall include:

(1) The time and date of the current hearing/trial;

(2) Any dates within the next thirty (30) days for which the attorney has a known conflict;

(3) The reason(s) for the request; and

(4) A draft judgment entry.

(D) If the motion for continuance is due to a conflicting trial date, the conflicting trial notice shall be attached to the motion. The Court will decide motions for continuance sought on grounds of conflicting hearing/trial schedules in accordance with Sup.R. 41(B).

(E) The filing of a motion for continuance does not continue the requested trial/hearing unless and until the Court files an entry granting the motion. Absent a signed Court Entry, the trial/hearing shall occur as scheduled.

Rule 1.07. Filing Documents and Costs.

(A) **Filing.** Documents may only be filed by a party in a case, or by an attorney representing a party in a case, unless otherwise ordered by the Court.

(B) **Filing directly with the Clerk.** All documents may be filed directly with the Clerk during the regular hours specified in Local Rule 1.02(B). All documents shall be deemed filed on the date and time file-stamped by the Clerk.

(C) **Filing by mail or delivery service.**

(1) Any document may be filed with the Clerk by sending the document, along with any copies required for service, by delivery service or mail addressed to: Clerk of Court, The Delaware Municipal Court, 70 N. Union St., Delaware, Ohio 43015.

(2) A document filed by mail or delivery service is not considered filed until it is received and file-stamped by the Clerk's office. Documents received in the Clerk's Office after 4:30 p.m. will not be file-stamped by the Clerk's office until the next business day.

(D) **Electronic filing**.

(1) All documents, except original complaints or pleadings asserting new or additional claims for damages, may be filed with the Court by emailing the document as an attachment (in either a .pdf or .doc(x) format) to e-filing@municipalcourt.org.

(2) Documents filed by email that are received in the Clerk's Office after 4:30 p.m. will not be file-stamped by the Clerk's office until the next business day. The time-stamp provided by any other computer system shall not alter the time of receipt or effect of this rule.

(3) A document that is filed electronically shall include a scanned version of the filer's original signature or a signature with a forward slash followed by an "s" followed by the persons' name in print (e.g. /s "John T. Smith").

(E) **Costs.**

(1) The Court has adopted a schedule of costs and filing fees in Civil and Criminal/Traffic cases which may be amended by order of the Court. A copy of the current cost schedule is available upon request from the Clerk's office or on the Court's webpage at www.municipalcourt.org.

(2) In any civil case in which a pleading or motion requires a filing fee, the filing fee shall be paid upon the filing of the original document, except for filing fees related to email filings, which shall be paid within three (3) business days of the email filing. Payments not received in a timely manner may result in the filing being stricken.

(3) A party may file an affidavit of indigence to waive a required fee/cost in a criminal or traffic case, or prepayment of fees/costs in a civil case. The affidavit shall state the reasons that the person is unable to pay. The Court may determine that an affidavit of indigence is insufficient and require the party to pay the filing fee. The party filing an affidavit of indigence does not pay a filing fee unless otherwise ordered by the Court.

(4) **Court Costs Deposits.** In civil proceedings the filing party shall deposit costs as required by the Court Cost Schedule (available at www.municipalcourt.org) unless otherwise ordered by the Court. Any filing fee/cost associated with a document filed electronically shall be deposited within three (3) days of filing.

(a) If any pleading or motion is not accompanied by the appropriate deposit, the Clerk shall accept the filing and notify the party of the insufficient deposit. The Court shall take no action on the filing until court costs are paid.

(b) Upon payment of the deposit, the Clerk shall re-submit the matter for consideration by the Court.

(c) Failure to timely deposit security for costs may result in dismissal of claim(s) without further notice.

(d) **Deposit to Secure Costs of Jury Trial.** In addition to the costs associated with filing the jury demand, a party demanding a jury trial in a civil case, shall pay the jury deposit twenty-one (21) days before the scheduled trial date. Failure to timely pay the jury deposit will constitute a waiver of jury trial, unless good cause is shown.

(F) **Personal Identifying Information.**

(1) To protect legitimate personal privacy interests, the filing party shall omit/redact any personal identifying information from documents filed with the Court. Sup.R. 44(H) defines personal identifiers to include social security numbers, except for the last four digits, financial account numbers (including but not limited to debit card, charge card, credit card numbers), and employer/employee identification numbers. The responsibility for omitting personal identifiers from a case document rests solely with the party filing the document. The Court and Clerk are not required to review the document to confirm that the party has redacted personal identifiers.

(2) When personal identifiers are omitted from a case document, the party shall submit that information for filing on a separate form.

(3) The Clerk shall not disseminate any records without conducting a review and redacting any personal identifying information pursuant to federal and state law.

Rule 1.08. File Management.

(A) Court files are presumed open to public access. The current docket for all cases and the electronic files, where available, can be obtained through the Court's website at www.municipalcourt.org.

(B) Restricting public access to a case document and obtaining access to those documents shall be done in accordance with the Sup.R. 44 – 47.

(C) Paper files may be examined under the supervision of the Clerk or a deputy clerk. Upon request, copies of documents will be provided at the cost specified in the Court's schedule of costs.

(D) No paper files may be removed from the Clerk's office without the written consent of the Judge or Magistrate assigned to the case, or the Administrative Judge if the Judge or Magistrate assigned to the case is not available. Any person seeking to remove a file shall set forth in writing the case name and number, the reason for removal, and the destination where the file is being taken.

Rule 1.09. Record of Proceedings.

(A) Court proceedings shall be recorded using the Court's audio and video recording system. Upon request and payment of the fee specified in the Court's cost schedule, the Court shall provide a visual/audio recording in the form in which the recording is maintained by the Court.

(B) If a party requests a written transcript of proceedings, the party bears all responsibility for the payment of transcribing the recording, unless the Court has declared the requestor indigent.

(C) A party may retain the services of a court reporter. The court reporter's costs shall be paid by the requesting party. The court reporter may transcribe a particular hearing as it occurs in the courtroom with prior Court approval, or they may listen to and transcribe a recording of a particular hearing. The party shall file a written motion requesting that such stenographic recording become the official transcript of the hearing. Further, the party, at the party's expense, shall provide a copy of the transcript to the Court.

Rule 1.10. Appearance and Withdrawal of Counsel.

(A) All notices of appearance of counsel in a case shall be in writing. Upon the notice of appearance of counsel, all documents filed with the Court and entries of the Court shall be served upon counsel.

(B) Once an appearance is made, counsel may withdraw from a case only by written leave of the Court and for good cause shown.

Rule 1.11. Recusal of Judge or Magistrate.

(A) If a party seeks recusal of a judge or magistrate, the party shall file a written motion. The motion shall state with specificity the facts that support recusal.

(B) If the request seeks recusal of a judge, the judge for whom the recusal is sought shall decide whether the facts require recusal.

(C) If the request seeks recusal of a magistrate, the judge assigned to the case shall decide whether the facts require recusal of the magistrate.

Rule 1.12. Courtroom Conduct.

(A) Upon the opening of any court session, all persons in the courtroom shall stand except those physically unable to do so. All persons in the courtroom shall conduct themselves with decorum and in such manner as to not interfere with the proper administration of the Court's business.

(B) The section of the courtroom inside the railings is reserved for employees of the Court, counsel(s), parties to the hearing and/or witnesses when called to testify.

(C) Proper and respectful attire is required of all individuals entering the courtroom.

(D) All cell phones, and other electronic devices, shall be silenced or turned off before an individual enters a courtroom. An individual shall not use a cell phone or other electronic device to place a phone call in a courtroom or record courtroom proceedings without prior Court approval.

(E) No smoking, eating, or drinking is permitted in the courtrooms. Exceptions may be granted with prior permission of the Court.

(F) Any person failing to comply with any aspect of this rule may be subject to appropriate sanction by the Court, including continuance or dismissal of the matter before the Court, confiscation of a cell phone pending the conclusion of Court proceedings, or a charge for contempt of Court.

Rule 1.13. Telephone and Video Appearances.

(A) **Purpose.** The purpose of this rule is to promote uniformity in the procedures for telephone and video appearances in cases when permitted by these rules, court order, statute, or other rules of court. Notwithstanding any other provisions of this rule, a judge or magistrate may order a party's personal appearance for any court proceeding.

(B) **Procedures.** The Court on its own motion, or upon the request of any party, may conduct court proceedings (when permitted by, and in accordance with, any applicable Rules and Law) in which the Court is an active participant via telephone or video conferencing with attorneys and unrepresented parties.

(1) All such proceedings involving telephone or video appearances shall be recorded when required and reported to the same extent as if the participants had appeared in person.

(2) The Court shall specify:

(a) The time, method, and person who will initiate the telephone or video conference; and

(b) Any other requirements necessary to accomplish or facilitate the telephone or video conference.

(3) Upon convening a proceeding involving telephone or video appearance, the Court shall recite the date, time, case name, case number, names and locations of parties and counsel, and the type of hearing.

(4) If at any time during a court proceeding conducted by telephone or video conferencing the Court determines that an in-person proceeding is necessary, the Court may continue the matter and require the parties to attend in person.

(C) **Confidential Attorney-Client Communication**. The Court's telephonic and/or video proceedings shall permit the parties to engage in confidential attorney-client communications as needed.

(D) **Witnesses.** Parties who wish to provide witness testimony telephonically or by video conferencing shall submit a written request to the Court no fewer than five (5) days before the Court proceeding in which they intend to present the witness' testimony. Remote testimony of a witness in a criminal/traffic proceeding requires written consent of the defendant.

(E) **Technical Standards and Equipment**. The equipment and platform used in any hearing or proceeding conducted under this rule must conform to the following minimum requirements:

(1) All participants must be able to see and/or hear and communicate with each other simultaneously.

(2) All participants must be able to see, hear, or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings, either by video, facsimile, or other method.

(3) The telephonic or audiovisual technology must generate a verbatim record of the proceeding.

(4) The use of telephonic or audiovisual technology in conducting hearings and proceedings shall in no way abridge any right of the public.

Rule 1.14. Magistrates.

The Court may employ one or more magistrates. Any matters permitted by the Ohio Rules of Civil Procedure or the Ohio Rules of Criminal Procedure shall be heard and determined by a Magistrate, as if upon General Order of Reference made by this Court.

CRIMINAL/TRAFFIC DIVISION

Rule 2.01. Criminal Complaints and Traffic Citations.

All criminal complaints and traffic citations shall be filed with the Clerk in original form and in accordance with Ohio Traffic Rules and Ohio Criminal Rules of Procedure.

Rule 2.02. Method of Service of Complaints Should Be Specified.

(A) The prosecutor or the law enforcement agency filing a criminal or traffic complaint shall indicate on the complaint or on accompanying documents either that the complaint has been served on the defendant or that a warrant or summons is requested.

(B) If a criminal or traffic complaint is filed after the date when the defendant was ordered to appear in Court for an arraignment, the prosecutor or law enforcement agency filing the complaint must request the issuance of a new summons or a warrant.

Rule 2.03. Use of Electronically Produced Citations and/or Tickets.

The Court authorizes the use and filing of traffic or criminal citations or tickets that are produced by a computer or other electronic means. The electronically produced citation or ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket or criminal citation. If any electronically produced citation or ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket in accordance with Traf.R. 3(E). Electronically-produced tickets may be filed with the Clerk either electronically or in paper form.

Rule 2.04. Bail Bond Schedule.

As required by Crim.R. 46(G), the Court has established a bail bond schedule for certain criminal and traffic offenses. In lieu of bond set by judge or magistrate, the clerk, arresting police authority, and/or jail commander are authorized to release a person charged with misdemeanor criminal/traffic offense pursuant to the Bail Bond Schedule. The schedule is available at the Clerk's office and on the Court's web page at www.municipalcourt.org.

Rule 2.05. Regulation of Bail Bond Agents.

Pursuant to Ohio Administrative Code 3901-1-66(I)(1), bail bond agents are prohibited from engaging in certain solicitation activities on the courthouse grounds of the Delaware County Municipal Court. The Court may initiate contempt proceedings against any bail bond agent who violates one or more provisions of O.A.C. 3901-1-66(I)(1), and such bail bond agent may be subject to suspension of his or her privileges to participate in any undertaking of bail or bail bond in this court.

Rule 2.06. Surety Bond Requirements.

(A) All bond agents and surety companies seeking to do business in the Delaware County Municipal Court shall register and file their required credentials with the Clerk by the first day of August of each numbered year in accordance with R.C. 3905.87. Registration after this date will require Court approval to be added to the approved list. A registration application can be obtained by contacting the Delaware Municipal Clerk.

(B) If a Defendant fails to appear at a scheduled hearing or trial, unless good cause is shown, the Court will issue a warrant for the Defendant's arrest, revoke previously established terms and

conditions of bond, and order the forfeiture of the posted surety bond. The Court shall issue a notice for a show cause hearing to the bail bond agent providing not less than 45 days but not more than 60 days to bring the Defendant before the Court.

(1) If the bail bond agent is unable to secure the Defendant's appearance within this time frame, judgment will be entered against the bail bond and/or surety company.
(2) If the bail bond agent does not satisfy the judgment within a reasonable time, the bail bond agent will be reported to the Ohio Department of Insurance and will be removed from the Delaware Municipal Court bail bondsman list.

Rule 2.07. Violations Bureau.

(C) The Court hereby establishes a Traffic Violations Bureau in accordance with Traf.R. 13, and a standard procedure for minor misdemeanors other than offenses covered by the Uniform Traffic Rules in accordance with Crim.R. 4.1 (collectively "Violations Bureau"). The Violations Bureau shall be administered by the Clerk.

(D) The Violations Bureau shall accept appearances, waivers of trial, pleas of guilty, and payment of fines and costs for offenses within its authority.

(E) The Violations Bureau shall have the authority to dispose of traffic offenses and minor misdemeanor offenses except for the following:

(1) Operating a motor vehicle while under the influence of alcohol or drug of abuse;
(2) Leaving the scene of an accident;
(3) Driving while under suspension or revocation of an operator's license;
(4) Driving without being licensed to drive;
(5) Fictitious plates/operator's license;
(6) A third (or more) moving violation within a twelve-month period;
(7) Failure to stop for a school bus;
(8) Willfully eluding or fleeing a police officer;
(9) Drag racing;
(10) Any offense carrying the potential of jail or suspension of an operator's license; or
(11) Any violation in which the officer marked "personal appearance required."

(F) The Court hereby establishes a waiver schedule of fines and costs for all offenses covered by the Violations Bureau. The current waiver schedule shall be displayed at the Clerk's office and posted on the Court's website, www.municipalcourt.org.

(G) Within seven (7) days after the date of issuance of the ticket, or the filing of the matter with the Clerk, a defendant charged with an offense that can be processed by the Violations Bureau may:

(1) **Pay in person at the Violations Bureau/Clerk's Office.** A defendant may appear at the Clerk's office, sign the plea of guilty and waiver of trial provision on the ticket, and pay the total amount of fines and costs (by cash, personal check, certified check, money

order, VISA or MasterCard). For all traffic offenses, the defendant must show proof of financial responsibility covering the date of the offense if not clearly marked on the citation as shown at the time of the offense.

(2) **Pay by mail.** A defendant may mail to the Clerk by US Mail the signed plea of guilty and waiver of trial provision on the ticket and payment of the exact total amount of fines and costs (by personal check, certified check, or money order). For all traffic offenses, a copy of proof of financial responsibility covering the date of the offense must be included if not clearly marked on the citation as shown at the time of the offense. The mailing must be received by the Clerk prior to summons date on the ticket.

(3) **Pay online.** A defendant may pay online by accessing their case using the online records search available at www.municipalcourt.org.

(E) The payment of fines and costs to the Violations Bureau constitutes a guilty plea and waiver of trial.

Rule 2.08. Court-Appointed Counsel.

(A) Appointment of either the Delaware County Public Defender's Office ("Public Defender's Office") or a private attorney shall be made by the Court. When the Public Defender's Office cannot represent an eligible defendant due to a conflict of interest, or another reason, the Public Defender's Office will appoint a private attorney from the court-appointed counsel list.

(B) Attorneys in private practice who wish to represent indigent persons in criminal or traffic cases shall submit an application to the Public Defender's Office to be added to the court-appointed counsel list. The Delaware Municipal Court Court-Appointed Counsel Committee, consisting of the Court's judges and the Delaware County Public Defender, are responsible for approving applications.

(C) Applications for the court-appointed counsel list are available from the Delaware County Public Defender's Office. In addition to a completed application, every attorney seeking a position on the court-appointed counsel list shall either:

(1) Attend an annual Continuing Legal Education course at the Delaware Municipal Court regarding the local rules and practicing before the Delaware Municipal Court; or

(2) Submit an annual affidavit to the Public Defender's Office within thirty (30) days of each new calendar year verifying that they have thoroughly reviewed the court's local rules, that the information in their application that was submitted for the court-appointed list is still accurate, and affirming that they have the time and resources to effectively and competently represent persons appearing before the Delaware Municipal Court.

(D) Attorneys approved for inclusion on the court-appointed list shall notify the Court, in writing, of any changes in contact information, attorney status, or intent to be included on the court-appointed list.

(E) An attorney's failure to follow the provisions of these rules may result in his or her removal from the court-appointed counsel list.

(F) The Public Defender's Office will make every effort to distribute the opportunities equally among those on the list. The Court-Appointed Counsel Committee will review the list of appointments periodically to ensure that no one attorney is being offered an opportunity for appointment at the expense of others on the list.

Rule 2.09. Case Management.

(A) **Purpose**. The purpose of this rule is to establish a system for criminal/traffic case management which will provide fair and impartial administration of cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the Court system.

(B) **Arraignments.** Unless permitted by law, rule, or by leave of Court, defendants must personally appear for arraignment. Unless the Court is closed for a legal holiday, arraignments are held at 8:00 a.m. every Monday, Wednesday, and Friday, except for inmates. Inmates appear for arraignment by video from the Delaware County Jail every Monday through Friday at 10:00 a.m.

(C) **Case Scheduling.**

(1) When a defendant enters a plea of "not guilty", the Court shall schedule the matter based on the following:

(a) Minor misdemeanors and unclassified misdemeanors shall be scheduled for bench trial unless otherwise ordered by the Court.

(b) Misdemeanors of the first through fourth degree accompanied by a waiver of speedy trial time, shall be scheduled for a telephonic pretrial conference, an in-person final pretrial conference, and a trial.

(c) Misdemeanors of the first through fourth degree NOT accompanied by a waiver of speedy trial time, shall only be set for an in-person final pretrial conference and a trial at the earliest possible dates.

(2) Any telephonic pretrial conferences shall be conducted in accordance with Crim.R. 17.1. Following the pretrial, the parties shall file a pretrial conference memorandum in cases that require the court to schedule a motion or change of plea hearing.

(3) If the parties notify the Court that they resolved the case during the telephonic pretrial conference, the assignment commissioner will contact the parties to determine whether the plea hearing will occur during the previously scheduled final pretrial

conference. If the plea will not occur during the previously scheduled date, the assignment commissioner will set a new date on which the plea hearing will occur.

(4) If the parties do not resolve the case during the telephonic pretrial conference, the case will proceed to the previously scheduled final pretrial conference. Any attorney who fails to appear for a final pretrial conference without just cause being shown may be subject to sanctions, including imposition of costs. A defendant's failure to appear will result in the issuance of an arrest warrant and/or other appropriate sanction(s).

(D) **Motions.**

(1) All motions, including Motions to Suppress, shall be made in writing within the time limits established by the Ohio Rules of Criminal Procedure, and shall be accompanied by a written memorandum containing the arguments of counsel and a proposed entry.

(2) Any motion which, by its nature, is capable of being determined without a hearing shall be ruled on without a hearing.

(3) All motions not heard or decided prior to trial will be disposed of at trial.

(E) **Trials.**

(1) **Proposed Jury Instructions.** At least forty-eight (48) hours before a trial is to commence, the parties shall submit all proposed special jury instructions to the Court in writing. Counsel for parties shall submit the citations of authority with the proposed jury instructions.

(F) **Sentencing.**

(1) Upon a finding of guilty, sentencing shall occur immediately unless otherwise ordered by the Court.

(2) Prior to sentencing and in its discretion, the court may order a presentence investigation be conducted by the Office of Community Control. Upon completion of its investigation, the Office of Community Control shall prepare a written report. The report, but not the recommendation, shall be made available for review by the prosecution and defense prior to sentencing.

(3) Counsel of record and any victims shall receive notice of the sentencing date and will have an opportunity to be heard.

(4) Costs, fines, and monies for restitution shall be paid immediately after sentencing unless otherwise ordered by the Court. If the defendant is unable to make payment in full of all costs, fines, and restitution that has been ordered, the defendant may, in the discretion of the Court, be granted additional time to pay.

Rule 2.10. Warrant Policy.

(A) **Purpose.** This rule outlines the process for handling of individuals who turn themselves in at the Court on warrants.

(B) **Cases Not Assigned to a Judge.**

(1) **Victim-related warrants with or without an attorney present.** Defendants who appear at the Court, with or without counsel, to turn themselves in on a warrant for any victim-related case not assigned to a judge will be arrested and processed as a jail arraignment during the next scheduled jail arraignment session. Notice of court proceedings shall be sent to the victim(s).

(2) **Non-victim related warrants with an attorney present.** Attorneys may bring clients to the Court to appear on a warrant that is not a victim-related case on Mondays, Wednesdays, or Fridays, no later than 8:30 a.m. These cases will be added to the regular arraignment docket.

(3) **Non-victim related warrants.** Defendants who appear at the Court during business hours on a non-victim related warrant shall be heard as soon as practicable.

(C) **Cases Assigned to a Judge.**

(1) Defendants who appear at the Court, with or without an attorney, on a bench warrant issued by an assigned judge for failure to appear must go to the assigned judge (or any other judge, if the assigned judge is not available), who will determine when the warrant will be heard. Victim-related cases shall require notice to the victim(s) prior to any court proceedings.

(2) The bench warrant shall not be recalled until the assigned judge issues a recall of the warrant. If the assigned judge does not issue a recall of the warrant, defendants may post bond pursuant to the bond schedule or the bond set on the individual case.

(a) If the Defendant can post bond, the Clerk's Office shall recall the warrant and provide the defendant with a Court date.

(b) If the Defendant cannot post bond, and after review by the Court, the defendant shall be arrested by law enforcement, taken to jail, and processed during the next scheduled jail arraignment session.

Rule 2.11. Community Control.

Unless otherwise ordered by the Court, any Defendant placed on community control shall report to the Office of Community Control to meet with a community control officer on the day of sentencing, immediately following the hearing. If a community control officer is unavailable to

meet with the defendant, then the defendant shall schedule an appointment prior to leaving the courthouse.

Rule 2.12. Video Hearings from Correctional Facility.

(A) At the Court's discretion, hearings on criminal or traffic matters may be held by means of closed-circuit video transmission to the Court from the correctional facility where the defendant is being held.

(B) The attorney representing the defendant, whether retained or appointed, shall be notified of the time scheduled for the video hearing, and may be present either at the Court or at the correctional facility. Attorneys shall conduct any required client meetings/consultations prior to the scheduled video hearing.

(C) Video hearings will be scheduled at times mutually convenient to the Court and correctional facility involved.

Rule 2.13. Traffic Safety Program (TSP).

(A) Defendants charged with waivable traffic offenses (that is, persons charged with offenses for which a fine may be paid in lieu of a personal appearance at the Court pursuant to Local Rule 2.07) may be eligible to participate in the Court's Traffic Safety Program. Eligibility requirements are available on the Court's website (www.municipalcourt.org).

(B) An eligible Defendant who successfully completes a defensive driving course and any other requirements of the Traffic Safety Program will have his/her case dismissed.

Rule 2.14. License Evaluation and Assistance Program (LEAP).

(A) Defendants charged with Driving Under Suspension or Operating a Motor Vehicle Without a Valid License may be eligible to participate in the Court's License Evaluation and Assistance Program (LEAP). The LEAP program is designed to assist eligible drivers who are under suspension in restoring their driving privileges. Eligibility requirements are available on the Court's website (www.municipalcourt.org).

(B) An eligible Defendant who successfully completes all program requirements and restores his/her driving privileges as required by the LEAP program will have his/her case dismissed.

Rule 2.15. Diversion Program for Certain Theft and Unauthorized-Use Offenders.

(A) The Court's Theft and Unauthorized-Use diversion program is intended to provide a short period of supervision and education to first-time offenders who are willing to accept responsibility for their misconduct. A Defendant may be eligible if he/she is charged with theft-related

misdemeanor offenses. Eligibility requirements are available on the Court's website (www.municipalcourt.org).

(B) Those who successfully complete the diversion program will not have a conviction on their record.

Rule 2.16. Diversion Program for Certain Drug and Alcohol Offenders.

(A) The Court's drug and alcohol diversion program is intended to provide a short period of supervision and education to first-time offenders who are willing to accept responsibility for their misconduct. A Defendant may be eligible if he/she is charged with alcohol-related misdemeanor offenses or certain drug-related offenses that are minor misdemeanors or fourth-degree misdemeanors. Eligibility requirements are available on the Court's website (www.municipalcourt.org).

(B) Those who successfully complete the diversion program will not have a conviction on their record.

Rule 2.17. Specialized Dockets

(A) **Mental Health Docket.** This Court established the Delaware Municipal Court Mental Health Docket on December 5, 2007.

(1) The Mental Health Docket was created to provide individuals charged with misdemeanors who have been diagnosed with certain mental disorders intensive supervision and treatment to reduce recidivism and improve quality of life.

(2) The operation of the Mental Health Docket shall be in accordance with the Court's Program Description and Participant Handbook, both of which are available on the Court's website.

(B) **Delaware Municipal OVI Specialized Docket.** This Court established the Delaware Municipal OVI Specialized Docket ("OVI Docket") on September 1, 2015.

(1) The OVI Docket was created to provide certain OVI offenders with supervision and treatment to reduce recidivism rates of those offenders.

(2) The operation of the OVI Docket shall be in accordance with the Court's Program Description and Participant Handbook, both of which are available on the Court's website.

(C) **Delaware Mission Court, a Veteran's Treatment Court.** This Court established the Delaware Mission Court, a Veteran's Treatment Court ("Veteran's Docket") on January 23, 2018.

(1) The Veteran's Docket was created to provide Veterans charged with misdemeanors the necessary treatment, services, and support so they may lead stable, law-abiding, and healthy lives as positive and productive members of the community.

(2) The operation of the Veteran's Docket shall be in accordance with the Court's Program Description and Participant Handbook, both of which are available on the Court's website.

CIVIL DIVISION

Rule 3.01. Case Management.

(A) The purpose of this rule is to establish a system for civil case management, pursuant to Sup.R. 18, which will achieve the prompt and fair disposition of civil cases at the Delaware Municipal Court.

(B) **Service of Process**. Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk shall notify counsel/the party immediately. If counsel/the party fails to obtain service of process within six (6) months from the date upon which the cause of action was filed, the Clerk shall notify counsel or the party that the Court shall dismiss the case in fifteen (15) days unless good cause is shown as to why the case should not be dismissed.

(1) **Certified Mail Refused or Unclaimed**. Unless otherwise directed by the party, if certified mail is returned marked "refused" or "unclaimed," the Clerk shall cause service by ordinary mail.

(2) **Personal Service**. If a party requests personal service, and the person to be served cannot be found at the time of the service attempt, the person making service may attempt residence service upon a resident of suitable age as permitted by Civ.R. 4.1(C), unless otherwise directed.

(3) **Post-on-the Door Service.** If a party to an eviction action requests post-on-the-door service as permitted by R.C. 1923.06, the person making service shall also attempt personal service on the person to be served or residence service upon a resident of suitable age as permitted by Civ.R. 4.1(B)-(C), unless otherwise directed.

(4) **Service by Publication**. Any party requesting service by publication shall prepare the notice for publication.

(C) **Responsive Pleading**.

(1) Upon the filing of a responsive pleading, the Clerk shall promptly forward the file to the Court for case scheduling.

(2) If no responsive pleading is filed, and Plaintiff does not take additional action within sixty (60) days of the date on which a responsive pleading was due, the Clerk

shall notify Plaintiff that failure to act within fifteen (15) days shall result in the case being dismissed.

(D) **Motions.**

(1) All motions shall be made in writing within the time limits established by the Ohio Rules of Civil Procedure and shall be accompanied by a written memorandum containing the arguments of counsel and a proposed entry ruling on the motion.

(2) Any motion which, by its nature, is capable of being determined without a hearing may be ruled on without a hearing.

(E) **Case Scheduling.**

(1) After the time for filing pleadings has passed, cases may be referred to mediation, unless otherwise ordered by the Court.

(2) Following, or in lieu of mediation, all cases are timely assigned for trial.

(F) **Trials.**

(1) All trials shall be set before the court unless a party to the action files a timely jury demand or is otherwise accorded a right to jury trial pursuant to law.

(2) When a jury trial is demanded, the case shall be timely scheduled for a status conference, unless otherwise directed. Any party requesting a jury trial shall submit, in printed and electronic format, a set of proposed jury instructions, interrogatories, and verdict forms prior to the status conference.

(3) Following the status conference, the case shall be timely set for a final pretrial and jury trial, unless otherwise directed.

(4) All settlement agreements must be executed prior to the first day of jury trial. No settlement agreements will be accepted by the Court on the day of jury trial unless the jury demand has been withdrawn.

Rule 3.02. Forcible Entry and Detainer.

(A) A complaint in Forcible Entry and Detainer shall contain a reason for the eviction, a copy of the notice required by R.C. 1923.04, and a copy of the written instrument, if any, which created the landlord/tenant relationship. When the plaintiff is a corporation, the complaint must be signed and prosecuted by an attorney.

(B) Claims for Forcible Entry and Detainer and claims for past due rent and money damages must be filed as separate counts in a single complaint and the Court shall hear each count separately.

(C) All Forcible Entry and Detainer cases shall be set pursuant to the time limits set forth in the Ohio Revised Code. At the hearing, the Court will apply the Ohio Rules of Evidence and Ohio Rules of Civil Procedure.

(D) When a case is called, it shall be disposed of as follows, unless otherwise ordered by the Court:

(1) In the event the plaintiff fails to appear, the case shall be dismissed without prejudice upon the motion of the Court.

(2) In the event the defendant fails to appear after being properly served, the Court shall receive evidence on the necessary elements pursuant to the Ohio Rules of Evidence. Plaintiff or plaintiff's agent shall appear and give testimony, based upon personal knowledge of the facts concerning the forcible entry and detainer. The Court will then render judgment accordingly.

(E) **Writ of Restitution.**

(1) If the Court renders judgment for the plaintiff/landlord, the plaintiff may obtain a Writ of Restitution by doing the following:

(a) Requesting the Writ within thirty (30) days of the date of the hearing in which judgment was rendered, unless the judgment orders otherwise; and

(b) Paying the filing fee.

(2) After the Writ is issued, it must be executed upon (the set-out must occur) within ten (10) days.

(3) The Court bailiff generally conducts set-outs on Tuesday mornings. The bailiff will schedule a set-out date and inform the landlord/plaintiff of the scheduled date.

(4) The set-out shall be supervised by the bailiff. The actual physical set-out of tenant/defendant's belongings shall be conducted by the movers hired by the landlord/plaintiff.

SMALL CLAIMS DIVISION

Rule 4.01. Authority and Purpose.

The Small Claims Division is established and operated pursuant to R.C. Chapter 1925. A Magistrate appointed by the Court shall conduct proceedings in the Small Claims Division. The purpose of Small Claims Division is to resolve minor disputes involving monetary judgments that do not exceed the amount specified in R.C. 1925.02, exclusive of interest and court costs.

Complaints seeking the return of property or an order requiring a party to perform a service must be filed in the Civil Division.

Rule 4.02. Pleadings.

(A) An action in the Small Claims Division is commenced by filing of a Complaint that states the amount and nature of the claim. Complaints filed in the Small Claims Division shall include:

(1) The filing fee set forth on the Court's current cost schedule, a copy of which is available on the Court's website and at the Clerk's office.

(2) When a claim is based on an account, or other written instrument, a copy of the account or instrument, or a reason provided for its absence.

(B) A defendant is not required to file an answer to the complaint. However, if the defendant fails to appear as ordered for the trial, after being duly served with the complaint, then a default judgment may be entered against the defendant.

(C) Any counterclaims shall be filed with the Court and served on all other parties at least seven (7) days prior to the date of the trial.

Rule 4.03. Case Management.

(A) **Case Scheduling.**

(1) If both parties reside in Ohio, the Clerk shall schedule the case for both a Mediation/Trial date and a Trial date. Small Claims hearings shall take place on Thursday of each week, and at other times as scheduled by Order of the Court.

(2) If a party does not reside in Ohio, the Clerk shall schedule the case for one date during which the parties will participate in mediation and, if necessary, trial.

(B) **Mediation/Trial.** This Court has established a mandatory Mediation Program for small claims cases, unless otherwise ordered by the Court. Every case set for mediation is subject to the following requirements:

(1) All parties shall attend;

(2) Participation by the parties in the mediation is mandatory;

(3) The purpose of mediation is to attempt to resolve the dispute between the parties;

(4) If the plaintiff fails to appear, the Court may dismiss the claim;

(5) If the defendant fails to appear, the Court may enter a judgment by default;

(6) If the dispute cannot be resolved, the case will proceed to trial.

(C) **Trial.** All trials in the Small Claims Division shall be conducted by a Magistrate, or a Judge if no Magistrate is available. The Magistrate shall place all parties and witnesses under oath and then allow the parties to state their respective cases, present evidence, and call their witnesses to testify. At the conclusion of the trial, the Magistrate shall prepare a Magistrate's Decision in accordance with Civ.R. 53(E)(3).

JURY MANAGEMENT PLAN

Rule 5.01. Purpose. It is the purpose of this Rule to implement an efficient and comprehensive system for jury use and management for the Delaware County Municipal Court.

Rule 5.02. Jury Eligibility.

(A) To ensure that the jury pool represents the adult voting population of Delaware County, Ohio, all registered voters are eligible to serve on a jury. The opportunity to serve on a jury will not be denied or limited on the basis of race, national origin, gender, sexual orientation, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

(B) The following persons are not eligible for jury service:

(1) Persons less than eighteen (18) years of age;

(2) Persons who are not citizens of the United States;

(3) Persons who are not residents of Delaware County;

(4) Persons who are not able to communicate in the English language; or

(5) Persons who have been convicted of a felony and have not had their civil rights restored.

Rule 5.03. Procedure for Jury Selection.

(A) Random selection procedures shall be used throughout the juror selection process. Random selection procedures shall be employed in:

(1) Selecting persons to be summoned for jury service;

(2) Assigning prospective jurors to panels; and

(3) Calling prospective jurors for voir dire.

(B) Departure from random selection procedures are appropriate:

(1) To exclude the persons who are not eligible for service.

(2) To remove prospective jurors for cause or if challenged peremptorily.

(3) To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

(4) To excuse or defer prospective jurors when a judge determines that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or if a judge or court official determines that their service on a jury would impose a continuing hardship on them or members of the public.

(C) **Excusal or Deferment.** A prospective juror requesting excusal or deferment shall:

(1)

(a) Submit a request to the court, in writing, together with any additional documents that support the request.

(b) Notwithstanding the provisions of section (1)(a), if extenuating circumstances warrant excusal or deferment, a judge or court official may grant an excuse or deferment not submitted in writing

(2) Provide a reason for excusal or a deferment as provided for under state or federal law.

(3) Report for jury service, unless a judge or court official grants an excuse or deferment.

(D) **Jury Selection/Voir Dire.** Voir dire is the preliminary examination of a prospective juror, under oath, to allow the Judge or parties to decide if the prospective juror is subject to removal from service for some cause or otherwise as permitted by law.

(1) On the date of the trial, examination of prospective jurors shall be limited to matters relevant to determining whether a juror must be removed for cause or to decide the juror's fairness and impartiality.

(2) The Court may conduct a preliminary voir dire examination concerning basic and relevant matters, and counsel shall be permitted a reasonable time to question panel members thereafter. Questions are to be asked collectively of the panel whenever possible. Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

(3) Voir dire shall be held on the record, but may be conducted outside the presence of other jurors to protect juror privacy, or to avoid juror embarrassment.

(4) If the Court determines during the voir dire process that an individual is unable or unwilling to sit in a particular case fairly and impartially, the individual may be removed from the panel for cause.

(5) Peremptory challenges are another way in which counsel or a party may seek removal of a juror from the panel. Each side is permitted three (3) peremptory challenges.

(6) In criminal cases, the jury shall consist of eight (8) regular jurors and one (1) alternate juror. In civil cases, the jury shall consist of eight (8) regular jurors and one (1) alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, an additional alternate juror may be selected.

(E) **Jury Service**.

(1) The Court may give preliminary instructions following the impaneling of the jury to explain the jury's role, trial procedures of the Court, along with other basic and relevant legal principles to ensure that jurors feel comfortable with their role as finders of fact.

(2) Jurors may be permitted to take notes during the presentation of evidence after proper instruction by the Court.

(3) Upon completion of the case and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during deliberations. According to the Civil and Criminal Rules of Procedure, the parties or their counsel may request special instructions.

(4) A final jury charge shall be committed to writing and provided to the jury for its use during deliberation.

(5) If jury deliberations are halted, jurors shall be allowed to be separated, unless for good cause shown, the court find that sequestration is necessary.

(6) Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open court. Upon the reading of the verdict in criminal cases, either party may request that the jury be polled.

MEDIATION

Rule 6.01. Generally. The "Ohio Uniform Mediation Act" under R.C. 2710 and Sup.R. 16.21 to 16.24 is incorporated herein.

(A) **Definitions.**

(1) "Mediation" is any process by which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement.

(2) "Mediator" is any neutral and impartial individual who conducts a mediation. Mediators are independent contractors not employed by the Court.

(B) **Domestic Violence Cases.**

(1) Per Sup.R. 16.21 the use of mediation is prohibited:

(a) As an alternative to the prosecution or adjudication of domestic violence;

(b) In determining whether to grant, modify, or terminate a protection order;

(c) In determining the terms and conditions of a protection order; and

(d) In determining the penalty for violation of a protection order.

Rule 6.02. Referral to Mediation.

(A) All small claims cases may be referred to mediation. All other civil cases shall be reviewed by the assigned judge or designee for referral to mediation.

(B) Mediation services may be provided in small claims cases at no cost to the parties.

(C) If the parties to any other civil case are directed by the Court to participate in mediation, the parties must, at their expense, select a mediator from the Court's roster of approved mediators or as otherwise directed or agreed. The list of approved mediators is posted on the Court's website (www.municipalcourt.org). If the parties fail to select a mediator, the Court may designate one.

Rule 6.03. Mediation Case Summary.

(A)

(1) Not fewer than five (5) days before the first mediation session, each party shall submit to the mediator a summary of facts and circumstances of the dispute, any arguments in support of their respective positions, the status of their compliance with any discovery requests, the amount of damages requested, and a summary of any prior settlement negotiations.

(2) The parties shall promptly provide whatever additional information and materials they deem necessary to aid the mediator in understanding the dispute. The mediator may request that the parties provide clarification or additional information.

(3) Parties may, but are not required, to have an attorney present at mediation to advise them. With the consent of the mediator, the parties may also designate other individuals to accompany them and participate in mediation.

Rule 6.04. Corporation as a Party in Mediation.

When a corporation or other legal entity is a party to mediation, a person with the authority to settle the case on behalf of the corporation shall participate in the mediation session.

Rule 6.05. No Advice.

No statement by a mediator in mediation may be construed as giving legal advice. Materials for legal services and other support services may be provided to all parties, including victims and alleged victims of domestic violence. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of, or referral to, such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

Rule 6.06. Mediation Report and Confidentiality.

The mediation process is confidential. All mediation communications are privileged as described in R.C. Sections 2710.03-2710.05. Following mediation, the parties shall inform the Court, in compliance with R.C. Section 2710.06, who attended the mediation and whether the case settled. No other information shall be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure. The mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

Rule 6.07. Comments or Complaints.

Following mediation, the parties may provide written comments and complaints regarding the performance of the approved mediator to the Court Administrator.

Rule 6.08. Settlement Agreement.

If a settlement is reached, the parties shall notify the Court in writing. The matter shall be dismissed subject to the jurisdiction of the Court to enforce the agreement and the parties' consent to ordinary mail service of an aggrieved party's motion for relief.