

HURON MUNICIPAL COURT

LOCAL RULES OF COURT

It is ordered that on and after March 1, 2015, the following be, and the same is hereby adopted as the Local Rules of Court, regulating the practice and procedure of this court until otherwise ordered. All other rules previously established are expressly revoked, except rules pertaining to court costs and deposits for costs which remain in full force and affect. The Rules of Superintendence of the Ohio Supreme Court and the Ohio Rules of Civil and Criminal Procedure, under which these local rules are promulgated, shall also govern the practices and procedures of this court. Nothing in the rules shall be interpreted to conflict with such Rules of Superintendence. These rules shall be effective on and after March 1, 2015, and may be amended by proper court order at any time thereafter.

It is so ordered.

/signed/ _____
Wm. R. S. Steuk, Judge

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Preamble

The foundation of our government rests upon the confidence of the people in the ability of their courts to achieve liberty and justice for all under the law. The fair, impartial, and speedy resolution of cases without unnecessary delay maintains this confidence, safeguards the rights of litigants to the just processing of their causes, and earns the trust of the public.

To secure these ends, the Huron Municipal Court adopts the following Rules of Court to serve the public interest that mandates prompt disposition of all causes and at all times. (The Preamble is taken from the Sup. R. Preface).

GENERAL RULES

Rule 1. Scope

(A) These Local Rules of Court are adopted for the governance of the practice and procedures in the Huron Municipal Court, pursuant to Article IV, Section 5(B) of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio.

(B) The purpose of these rules is to facilitate the expeditious disposition of cases that come before the court.

Rule 2. Hours of regular operation

The offices of the court shall be open for the transaction of business between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday with the exception of designated holidays or other court related functions. Payments on fines and tickets can be paid after hours at the Huron Police Station provided that Defendant has proper paperwork and the scheduled court appearance date has not passed.

Rule 3. Administrative Judge

The judge of the Huron Municipal Court shall also be the Administrative Judge pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio.

Rule 4. File management

(A) Paper court files may be examined at the office of the Clerk of Courts under the supervision of the clerk or deputy clerk.

(B) No document may be removed from a paper court file.

(C) No paper file may be removed from the clerk's office without the written consent of the judge or clerk. Any person seeking to remove a file shall set forth in writing the case name and number, the reason for removal and the destination of the file. Paper files must be promptly returned to the clerk's office and may not be removed from the court building.

Rule 5. Costs and filing fees

The court has adopted a schedule of costs and filing fees in civil cases, as well as criminal and traffic cases, and may order amendment of the same from time to time.

Rule 6. Pleadings and motions

(A) All pleadings and motions shall be typed or legibly printed on paper approximately 8 1/2 inches by 11 inches in size and securely bound at the top.

(B) The caption of the complaint shall state the name and address, if known, of each party. The caption on any other pleading adding or naming new parties shall state the names and addresses, if known, of the new parties. All other pleadings and motions shall state the case number and the name of the first party plaintiff and the first party defendant. Every pleading, motion, or other document filed in a case shall be identified by title and shall bear the name, address and telephone number of the individual filing the same. Documents filed by an attorney shall include the name of the attorney, his or her Ohio Supreme Court registration number and firm name, if any, as well as his or her address, telephone number, fax number and e-mail address.

(C) All pleadings and motions must be served upon the opposing counsel, or if a party is not represented, then upon the opposing party in accordance with the Ohio Rules of Civil Procedure.

(D) Interrogatories, notices of deposition, requests for admissions, and other discovery requests shall not be filed with the court unless otherwise ordered.

(E) Any pleading or motion filed in contravention of this rule may be stricken from the files in the court's sole discretion.

(F) All pleadings, motions, orders, and entries must be presented and date stamped at the Clerk's office.

(G) No pleadings or motions after being filed shall be amended or altered without the consent of the Court.

(H) The original copy of all pleadings shall be the Court's copy, possession of which shall not leave the Clerk's office.

(I) Parties are responsible for providing additional copies of all pleadings and motions filed with the Clerk's office to secure adequate coverage of all parties if Court is required to send copies to all parties.

Rule 7. Facsimile filing

(A) All pleadings, motions, or other documents other than the original complaint or any other pleading that joins or adds a new party, may be transmitted to the court by facsimile transmission, to (419)433-3272, subject to the conditions set forth in this rule.

(B) The following definitions shall apply herein, unless the context requires otherwise:

(1) "Facsimile transmission" means the transmission of a source document by a system that encodes a document into optical or electrical signals, and transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.

(2) "Facsimile machine" means a machine that can send and/or receive a facsimile transmission.

(3) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the

context, to facsimile transmission or to a document so transmitted.

(C) A document filed by fax shall be accepted as the original filing. The sender shall not be required to file the source document with the clerk but must maintain the same in the sender's records, and have the same available for production on request of the court, with original signatures as otherwise required under these or other applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing. Moreover, the sender shall maintain the source document until the subject case is closed and all opportunities for appeal have been exhausted.

(D) The person filing a document by fax shall also provide a cover page containing the following information:

- (1) The name of the court;
- (2) The title of the case;
- (3) The case number;
- (4) The title of the document being filed;
- (5) The date of transmission;
- (6) The transmitting fax number;
- (7) An indication of the number of pages included in the transmission, including the cover page;
- (8) An indication that a case number has not been assigned, if applicable;
- (9) The name, address, telephone number, fax number, and, if available, the e-mail address of the person filing the fax document;
- (10) For an attorney, his or her Ohio Supreme Court registration number and firm name, if any.

(E) In the event a document is sent by fax to the clerk without the cover page information listed above, the clerk may, in his or her sole discretion enter the document in the docket and file the document, or deposit it in a file of failed faxed documents with a notation of the reason for the failure. In the later event, the document shall not be considered filed with the clerk.

(F) A party filing a signed source document by fax shall either fax a copy of the signed source document, or fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears on the signed source document. The individual filing a signed document by fax represents that the physically signed source document is in such party's possession or control.

(G) Each exhibit to a facsimile-produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing.

(1) Unless otherwise directed by court order, the missing exhibit shall be filed as a separate document not later than five days following the transmission of the fax document. Failure to file the same shall result in the court striking the document and/or exhibit in its sole discretion.

(2) Any exhibit filed as set forth above shall be attached to a cover sheet

containing the information set forth in subsection (D) of this rule, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in the court.

(H) Subject to the provisions of these rules, all documents sent by fax and accepted by the clerk shall be considered filed as of the date and time the clerk time-stamps the document received, rather than as of the date and time of the fax transmission. The clerk's office shall be deemed open to receive facsimile transmission of documents on the same days and times that the court is regularly open for business.

(1) Fax filing may only be transmitted directly through the facsimile equipment operated by the clerk and may not be sent directly to the court for filing.

(2) The clerk shall not be required to acknowledge receipt of a facsimile transmission.

(3) The risks of transmitting a document by fax to the clerk shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filing with the clerk.

(I) No document filed by facsimile that requires a filing fee shall be accepted by the clerk for filing until court costs have been paid.

(1) Documents tendered without payment of court costs, or without complete information on the charge authorization or request, or which do not conform to these or other applicable rules will not be filed.

(2) No additional fee shall be assessed for facsimile filings.

Rule 8. RESERVED

Rule 9. Appearance and Withdrawal/Substitution of Counsel

(A) All entries of appearance of counsel in an action shall be in writing.

(B) Upon the entry of appearance of counsel, all documents filed with the court and entries of the court shall be served upon said counsel.

(C) Once an appearance is made; counsel may withdraw from a case only by written leave of court for good cause shown.

(D) The Court or Clerk's office shall not accept a substitution of council notice until the current counsel is effectively withdrawn from the case.

Rule 10. Continuances

(A) All motions for continuances shall be submitted to the court in writing and shall include a brief in support setting forth the reasons requiring the continuance. No continuance shall be granted in the absence of proof of reasonable notice to, or consent by, the other party.

(B) When a continuance is sought for the reason that counsel is scheduled to appear in another case assigned for hearing on the same date in another court, the movant shall attach a copy of the notice received from the other court. Motions for continuance sought

due to a conflict in hearing or trial schedules shall be ruled upon in accordance with Rule 41(B) of the Rules of Superintendence for the Courts of Ohio.

(C) No continuance will be considered if filed within seventy-two hours of the hearing date unless the moving party secures the consent of the other party in writing and such consent is filed with the court prior to the hearing date.

(D) Motions for continuance, when submitted in accordance with the above, will be granted in the discretion of the court for good cause shown. A continuance that has not been ruled on by the date of the hearing shall be considered to be denied.

Rule 11. Recording of proceedings

(A) A record shall be made of traffic, criminal, civil and small claims proceedings by an audio electronic recording device. In the event a party desires recording by stenographic means, such party must arrange for the presence and advance payment of a court reporter and further file a written motion requesting that such individual be named as the official reporter for the hearing.

(B) The court shall maintain exclusive custody and control of the electronic recording records of proceedings. The court will retain all records for a period of at least one (1) year. At the expiration of such period, records will be destroyed except in the instance of an appeal in which event the subject recording(s) will be retained during the pendency of the appeal.

(C) A party may have a full or partial transcript prepared from the court record(s) by arranging for the presence and advance payment of a court reporter to prepare the same. The expense relating to the transcript shall be the responsibility of the requesting party.

Rule 12. Security

(A) All persons entering the court building shall be subject to search by the court security officer.

(B) No weapons are permitted in the court building except those carried by court security officers and other law enforcement officers who are acting within their scope of employment.

(C) All cell phones, tape recorders, pagers and cameras shall be prohibited in the Courthouse. If any of these items are brought to the courthouse they shall either be returned to owner's vehicle or stored, and then returned to the rightful owner upon their leaving the premises. The Huron Municipal Court and the City of Huron are not responsible for any lost, stolen or damaged items left or stored in the Court building. Refusal to remove said item or to tag the same may result in an appropriate sanction by the court. Professional media equipment may be allowed upon prior approval by the Judge.

(D) In addition to the provisions in this Rule, all persons entering the Court building are subject to the security and safety measures provided in this Court's Judgment Entry filed on January 27, 2014, titled In Re: Court Security and Safety Measures and as amended.

Rule 13. Conditions for recording and/or broadcasting proceedings

(A) Definitions and application:

(1) For purpose of these rules, the terms “record and/or broadcast” shall be construed to include broadcasting, televising, and recording whether by video, movie, audio and/or photograph. The term “proceedings” shall be construed to include any public hearing held by the court.

(2) Application for permission to record and/or broadcast proceedings shall be made in writing to the judge as far in advance as reasonably practical, but in no event less than one-half hour prior to the proceeding unless otherwise permitted by the judge.

(3) Although no special form of application is required, it must identify and be signed by the applicant and specify the type of equipment to be used. The “pooling” required by Rule 12 of the Rules of Superintendence for the Courts of Ohio shall be accomplished prior to submission of the application.

(4) The judge shall grant or deny the application in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio and Canon 3 (B)(3) of the Code of Judicial Conduct.

(B) Permissible equipment and operators shall be as follows, unless otherwise permitted by the judge:

(1) Not more than one portable television, videotape, or movie camera with one operator shall be permitted.

(2) Not more than one still photographer with not more than two still cameras with not more than two lenses for each camera shall be permitted.

(3) For radio broadcast purposes, not more than one audio system shall be permitted.

(4) No electronic or photographic equipment shall be permitted that produces distracting sound and light. No artificial lighting other than that normally used in the courtroom shall be allowed. No motor driven cameras shall be allowed.

(C) Location of equipment and operators

(1) The television, videotape or movie camera(s) shall be positioned on a tripod in an area designated by the judge which provides reasonable access to coverage and shall remain fixed in that position. Equipment that is not a component part of the in-court unit shall be located outside of the courtroom.

(2) Equipment operators shall position themselves in a location in the courtroom either standing or sitting and shall assume a fixed position in that area. Operators shall act so as to not call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about except to leave or enter the courtroom.

(3) Cameras, microphones and taping equipment shall not be placed, moved or removed from the courtroom except prior to the commencement of or after adjournment of the proceedings or during a recess unless otherwise permitted by the judge. Television film magazines, rolls or lenses, still camera film, and audio portable tape cassettes shall not be changed except during a recess.

(4) Microphones shall be located only at the bench, witness stand, and attorney tables. Microphones shall be as inconspicuous as possible but shall be visible.

(D) Limitations

(1) No media recording of proceedings in a judge's chambers or access to the same shall be permitted, unless expressly granted by the judge.

(2) There shall be no audio pickup or broadcast of conferences conducted in court between attorneys and clients or co-counsel, or of conferences conducted at the bench between counsel and the judge.

(3) No media recording shall be permitted in the jury deliberation room at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors shall be permitted at any time.

(4) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed. Recording and/or broadcasting of victims of sexual assaults, informants and undercover police officers shall not be permitted.

(5) No media recording shall be made of any document or exhibit before or after it is admitted into evidence, except those which are clearly visible to spectators (e.g. maps, charts, blackboards, etc.)

(6) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

(E) Revocation of permission

Upon the failure of any media representative to comply with the conditions prescribed by these Local Rules, the judge, or of Rule 12 of the Rules of Superintendence for the Courts of Ohio, the judge may revoke the permission to record and/or broadcast the proceedings.

Rule 14. Decorum and conduct

(A) Upon the opening of any court session, all persons in the courtroom shall stand except for 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) All persons appearing before the court shall, to the extent practicable, appear in appropriate and clean dress.

(C) Small children are not permitted in the courtroom while the court is in session without the prior permission of the judge.

(D) No smoking, eating or drinking is permitted in the courtroom. No one is permitted to bring food or drink into the courtroom, unless authorized by the judge.

(E) No person shall loiter or behave in an unseemly or disorderly manner in the courtroom or in any hall, entryway or stairway, or otherwise interfere with or obstruct judicial activities or proceedings.

(F) Failure to comply with any aspect of this rule may result in appropriate sanction by the court, including continuance or dismissal of the matter before the court, or a charge of contempt of court.

Rule 15. RESERVED

Rule 16. FRIVOLOUS ACTIONS AND VEXATIOUS LITIGATORS

If the Court, *sua sponte* or on motion by a party, determines that an action is frivolous or is filed for delay, harassment or any other improper purpose, it may impose, on the person who signed the complaint or action, a represented party or both, appropriate sanctions. The sanctions may include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or any other sanction the court deems just.

- A. An action shall be considered frivolous if it is not reasonably well-grounded in fact or warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.

- B. If a party habitually, persistently and without reasonable cause engages in frivolous conduct under section (A) of this rule, the court may, *sua sponte* or on the motion by a party, find the party to be a vexatious litigator. If the court determines that a party is a vexatious litigator under this rule, the court may impose filing restrictions on the party. The restrictions may include prohibiting the party from instituting legal proceedings in the court without first obtaining leave or any other restriction the court considers just.

CRIMINAL AND TRAFFIC MATTERS

Rule 17. Appearance of the Defendant

(A) Persons charged with traffic and/or criminal offenses must be present at the initial appearance as well as all subsequent hearings except as set forth herein. Failure to appear will result in the issuance of an arrest warrant and/or other appropriate sanctions.

(B) The requirement of the defendant's initial appearance may be satisfied by counsel for the defendant filing a letter or notice of appearance with the court prior to the date of the initial appearance and setting forth all of the following:

- (1) Plea on the defendant's behalf;
- (2) Waiver of the time for speedy trial; and
- (3) Request that a pretrial be set.

Rule 18. Video Hearings

(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) If applicable, 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 the correctional facility.

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

(D) In the event the defendant personally or through counsel objects to the matter being held by video transmission, the proceedings shall take place in person in the courtroom.

Rule 19. Traffic Practice

(A) The judge shall arraign all persons charged with traffic offenses, and shall hear cases in which a plea of "guilty" or "no contest" shall be entered. At arraignment, the defendant or counsel may request a jury trial, except for a minor misdemeanor. A plea or demand will not be accepted by telephone.

(B) Traffic violations bureau. The traffic violations bureau is established and the clerk of courts is appointed to be its violations clerk, who shall collect fines paid to, give receipts for, and render accounts of the bureau. The schedules of fines and costs which shall be charged by the violations bureau are established and are published and available as requested. "Fines and Costs in Traffic Cases". For defendants and defendants' representatives who enter pleas of "not guilty" outside of the traffic arraignment session, the motions listed in Ohio Traffic Rules, Rule 11(B)(1) may be raised after plea but before trial.

(C) The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Huron Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket. The use and filing of an electronically produced ticket shall be in compliance with Ohio Traffic Rules, Rule 3(F) in all other respects.

Rule 20. Motion Practice

(A) All motions shall be made in conformity with Criminal Rule 12.

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

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

(D) In any case where a party or counsel anticipates that a motion hearing will require more than one hour, it is the responsibility of the party or counsel to notify the court so that adequate time can be scheduled.

Rule 21. Case Management

(A) Criminal and traffic cases in which the defendant enters a plea of not guilty at the initial appearance shall be set for trial.

(B) The trial will be set before a judge unless the defendant files a timely jury demand in writing, or is otherwise accorded the right to jury trial by law.

(C) A pretrial conference may be set where the court determines the same is necessary and appropriate.

(D) Cases that are not disposed of at the conclusion of a pretrial conference will be set for trial unless the court determines a final pretrial conference is necessary and appropriate.

(E) Written notice of the date and time of a trial and/or pretrial conference shall be provided in person to the defendant and/or counsel. If not present to receive the same, written notice shall be sent by mail to the defendant, counsel of record, and the prosecuting attorney of record.

(F) Continuances shall be submitted and ruled upon in accordance with Local Rule 10.

(G) Both the defendant and counsel of record shall be required to personally attend all hearings. The defendant's failure to appear will result in the issuance of an arrest warrant and/or license forfeiture or warrant registration block.

Rule 22. Jury Instructions

In cases in which a jury trial is demanded, all parties shall file proposed jury instructions at least seven days prior to trial with the court and serve the same upon opposing counsel.

Rule 23. Sentencing

(A) Upon a finding of guilty, sentencing shall occur immediately unless otherwise permitted by the court.

(B) Prior to sentencing and in its discretion, the court may refer the defendant to the probation department for a presentence investigation. Upon completion of its investigation, the probation department shall prepare a written report. Such report shall be made available for review by the prosecution and defense prior to sentencing.

(C) Costs, fines and monies for restitution are expected to be paid immediately after sentencing unless otherwise permitted by the court. In the event the defendant is unable to make payment in full of all sums required, the defendant may, in the discretion of the judge, be granted time to pay.

Rule 24. Probation

(A) The court will determine eligibility for any community control sanction including but not limited to supervised probation, unsupervised probation, or any other sanction provided by law. Any defendant who is referred to probation shall meet with the probation officer immediately after sentencing. In the event the probation officer is unavailable to meet with the defendant, it shall be the defendant's affirmative duty to schedule an appointment by contacting the probation officer. At the initial meeting with the probation officer:

1. The probation officer shall provide a copy of the court's Standard Conditions of Probation to each defendant referred for supervised probation and secure the defendant's signature upon the same; and

2. The probation officer shall inform each defendant referred to probation of the specific terms of probation;

(B) A determination by the probation officer that the defendant has failed to agree to or comply with any court orders at sentencing, Standard Rules of Probation, or with the terms of community control, shall result in the scheduling of a probation Probable Cause hearing. If probable cause is found, the court will schedule the case for a probation Revocation Hearing. Defendant has the right to counsel at a Probation Revocation Hearing.

(C) There shall be a fee assessed for any term of probation. Additional fines may be assessed for certain probation violations.

Rule 25. Underage Alcohol Diversion Program:

(A) The Underage Alcohol Diversion Program (UADP) is for first-time offenders charged with offenses alleging underage consumption or possession of alcohol. Defendants are eligible if they also have an accompanying minor misdemeanor offense of open container or disorderly conduct at the discretion of the judge. At arraignment, if it appears that defendants are candidates for the program, and they want to enter the UADP, defendants are required to do the following:

1. enter a No Contest Plea when asked by the court;
2. waive their right to an attorney;
3. waive their right to a trial; and
4. waive their right to have their case tried in the prescribed time period.

The court will hold its findings in abeyance. This step can also occur following a prosecutor's pre-trial conference with defense counsel.

(B) Individuals may not be admitted into the UADP if: the court finds that a defendant has prior criminal convictions; has been previously charged with underage consumption even if such charge was dismissed due to a prior diversion program; a prior OVI/OMVUAC conviction or the instant offense is connected to an OVI/OMVUAC arrest; the defendant made false statements to a law enforcement officer; there are other criminal offenses charged with the present offense; or for any other factor that the court deems relevant. The court may also decline to admit a defendant into the program if, at the court appearance, it is found the defendant has an active warrant issued for arrest.

(C) A defendant is given ninety days from the date of the no contest plea to complete the program. Participants shall pay an application fee, complete an educational instruction program at their own expense, and complete the required hours of community service work. While enrolled in the program, all participants must remain law abiding, have no further criminal offenses or alcohol/drug related traffic offenses and are subject to random alcohol/drug screening.

(D) Upon successful completion of the UADP requirements a dismissal hearing will be held at which the court shall dismiss the charge. The defendant shall pay the court cost associated with the dismissal. If the defendant fails to successfully complete the diversion program, the defendant shall be found guilty of all charges and the court shall proceed to sentencing on those charges.

Rule 26. Community Service Sanctions

(A) The court will determine eligibility for community service sanctions. Any defendant who is ordered to perform community service shall meet with the probation officer immediately following sentencing. In the event the probation officer is unavailable to

meet with the defendant, it shall be the defendant's affirmative duty to schedule an initial appointment.

(B) All community service shall be performed at pre-approved sites and must be conducted in Erie County, Ohio, unless the judge permits otherwise.

(C) The probation officer shall provide a copy of the court's Standard Judgment Entry, Court Referral Program and General Release of Community Service to each defendant referred for probation and secure the defendant's signature upon the same.

(D) The probation officer shall inform each defendant referred to community service of the specific terms thereof.

(E) A determination by the probation officer that the defendant has failed to agree to or comply with the Standard Rules of Community Service, or with the terms of community service, shall result in the scheduling of a community service violation hearing and may result in the imposition of the original sentence in whole or in part.

Rule 27. Traffic Violations Bureau

(A) Pursuant to Ohio Traffic Rule 13, there is hereby established a Traffic Violations Bureau and the Clerk of Court is hereby appointed as clerk thereof. The Huron Police Department officers are appointed to serve as deputy violations bureau clerks to act when the violations clerk is not on duty.

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

(C) The Traffic Violations Bureau shall have authority to dispose of traffic offenses and minor misdemeanor offenses with the exception of the following:

- (1) Indictable offenses;
- (2) Operating a motor vehicle while under the influence of alcohol or any drug of abuse;
- (3) Leaving the scene of an accident;
- (4) Driving while under suspension or revocation of a driver's or commercial driver's license;
- (5) Driving without being licensed to drive, except where the driver's or commercial driver's license has been expired for six months or less;
- (6) A third moving violation within a twelve-month period;
- (7) Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child;
- (8) Willfully eluding or fleeing a police officer;
- (9) Drag racing; or
- (10) Any violation in which the officer marked the notice as "personal appearance required".

(D) There is hereby established a waiver schedule of fines and costs for subject offenses. Such schedule shall be distributed to the law enforcement agencies operating within the jurisdiction of the court.

(E) Within seven days after the date of issuance of the ticket, or the filing of the matter in this court, a defendant charged with an offense that can be processed by the violations bureau may:

(1) Appear in person at the violations bureau, sign a plea of guilty and waiver of trial, and pay the total amount of fines and costs; or

(2) Sign the guilty plea and waiver of trial, and mail the ticket and a personal check (city of Huron residents only), certified check or money order to the bureau; or

(3) Pay online or call the Court's third party designee for payment by credit card (subject to a fee). Payment by telephone or online constitutes a guilty plea and waiver of trial.

(F) Waivers in person or by mail must be accompanied by proof of financial responsibility which must have been in effect on the date of the violation.

Rule 28. Court Appointed Counsel

Pursuant to Sup R 8(B) the following procedure for selecting attorneys to represent indigent persons shall be followed:

Where appropriate, the Erie County Public Defenders Office will take appointments for those cases in which the defendant seeks a court appointed counsel. It is the Defendants responsibility to make application with the Erie County Public Defender's Office and to cooperate with the office in supplying any information needed to determine if the defendant is qualified to receive a court appointed counsel. A non-refundable twenty-five dollar (\$25.00) application fee shall be paid prior to any court appointment being made. In certain instances this fee may be added to the court costs of the applicable case. This fee may be waived by order of the Judge.

CIVIL MATTERS

Rule 29. Security for costs/deposit for jury trial

(A) No pleading, motion, or other document shall be accepted for filing by the Clerk of Court unless there is first deposited the filing fee if, applicable, set forth in the schedule of costs established from time to time by the court.

(B) Upon a claim of indigency, a party shall file a written motion and affidavit setting forth his or her income and expenses, and the court shall rule upon the same.

(C) When a jury trial is demanded, the party requesting the same shall make an advance deposit for the case to be scheduled for a jury trial. If the deposit is not made within thirty (30) days of the demand for a jury trial, the jury demand will be deemed to have been waived and the case will proceed as a trial before the court.

Rule 30. Motion Practice

- (A) All motions shall be made in conformity with the Ohio Rules of Civil Procedure.
- (B) Each motion shall include a certificate of service attesting to service upon the opposing party or, if represented by counsel, upon counsel for such party.
- (C) Motions shall be supported by a brief citing applicable case and statutory law.
- (D) The failure of a party to file a brief in opposition to a motion may be construed as consent to granting of said motion.
- (E) All motions not heard or decided prior to trial will be disposed of at the time of trial.

RULE 31. Civil Motions and Hearings

This rule applies to all civil motions except rule day extensions and motions for continuances. The moving party should file with the Court an original and one copy of the motion, affidavit, and notice of hearing and all parties should file with the Court an original and one copy of memoranda of authorities in order to provide the Court with a working copy. It is not necessary, but a party is allowed to file an extra copy of affidavits, the relevant portions of depositions, exhibits and other documentation submitted in support or in opposition to a motion. For purposes of scheduling and briefing, there are two classes of motions:

1. **Non-Oral Hearing Motions.** Non-Oral hearing motions are motions in which the movant or a party opposing a motion does not request an oral hearing. Non-Oral Hearing motions include the following and are subject to the applicable brief schedule:

(a) **Motions for summary judgment** shall be scheduled for a non-oral hearing by the Clerk of Courts. The non-oral hearing shall be scheduled on a date that is at least 28 days after the date of filing the motion with the court or the date of service set forth on the certificate of service attached to the motion, whichever is later. The party filing the motion shall file with it and cause to be served on the opposing party(s), supporting affidavits, depositions, exhibits and documentation and a memorandum of authorities in support of the motion. Not later than 14 days before the date of the non-oral hearing, the opposing party(s) shall file with the Court and cause to be served upon the moving party opposing affidavits, depositions, exhibits and documentation and a memorandum of authorities opposing the motion. The moving party may file with the Court and cause to be served upon the opposing party(s) a reply memorandum of authorities not later than seven days before the date of the non-oral hearing. Motions not supported by a memorandum of authorities may be stricken from the motion hearing calendar;

(b) **Motions for default judgment** shall be in writing and clearly state the date the complaint was filed, the manner in which service was perfected, proof of service and the answer date. Motion for default judgment shall be ruled on at the Court's earliest convenience there is no need to schedule a

non-oral hearing date on a simple default motion unless the judge determines that a non-oral or oral hearing is necessary; and

(c) **All other civil motions** shall be scheduled for a non-oral hearing by the party filing the motion by noting the motion on the first non-oral hearing calendar date that is at least 28 days after the actual date of filing the motion with the Court or the date of service set forth on the certificate of service attached to the motion, whichever is later. The Clerk of Court shall schedule the Non-Oral Hearing date. The party filing the motion shall file with it and cause to be served on the opposing party(s), supporting documentation, if any, and a memorandum of authorities in support of the motion. Not later than 14 days before the date of the non-oral hearing, the opposing party(s) shall file with the Court and cause to be served on the moving party opposing documentation, if any, and a memorandum of authorities opposing the motion. The moving party may file with the Court and cause to be served upon the opposing party(s), so as to be actually received not later than 7 days before the non-oral hearing, any reply documentation and a reply memorandum of authorities. Motions not supported by a memorandum of authorities may be stricken from the motion hearing calendar.

2. Oral Hearing Motions. Oral hearing motions are motions in which the movant or party opposing a motion does request an oral hearing in writing. An oral hearing may be requested on any motion by any party moving or opposing the motion. The party requesting the oral hearing shall indicate such request in writing on the first page of the motion, brief or other document filed with the Court by including the words “**ORAL HEARING REQUESTED**”. Oral hearings are granted only upon approval of the judge. If the judge authorizes an oral hearing, the Clerk of Courts shall schedule the oral hearing. The scheduling of the oral hearing shall conform to the scheduling of the non-oral hearing in order to permit the parties to have the same briefing schedule. The oral hearing will not be scheduled earlier than the date and time of the non-oral hearing. The request for the oral hearing must be made at least 7 days before the non-oral hearing date. A party will not be permitted to argue at the oral hearing unless he or she has complied with the applicable briefing schedule for non-oral hearing motions. The Court may, in its discretion, limit the time allowed for oral argument.

Rule 32. Case management

(A) Summons shall be served in accordance with the Rules of Civil Procedure. In the event of a failure of service, the Clerk shall promptly notify the plaintiff or counsel of record.

(B) All small claims and forcible entry and detainer cases shall be file-stamped on the date they are received by the Clerk. They shall be promptly set for trial before the judge.

(C) Contested matters, except for small claims and forcible entry and detainer, shall be

set for trial.

(D) The trial will be set before a judge unless a party files a timely jury demand in writing and makes the jury deposit required. There shall be no jury trial in a small claims case.

(E) A pretrial conference may be set where the court determines the same is necessary and appropriate. Where a party is represented by counsel, a telephone case management conference may be set at the discretion of the judge and as requested by the counsel.

(F) Cases that are not disposed of at the conclusion of a pretrial will be set for trial unless the court determines a final pretrial conference is necessary and appropriate.

(G) Written notice of the date and time of a trial and/or pretrial conference shall be provided to the parties and/or counsel. If not present to receive the same, written notice shall be sent by mail to the parties, or by e-mail to the counsel of record.

(H) Counsel and parties must appear before the court at pretrial hearings. Insurance adjusters may substitute for their insured provided they have full authority to settle the case on behalf of the insured. No appearances by telephone will be allowed unless specifically permitted by the court.

(I) Parties will be encouraged at the pretrial to review the possibility of settlement, to simplify and narrow the issues for trial, to reach stipulations of fact not in controversy, to shorten the time and expense of trial and to consider such other matters as may aid in the disposition of the case.

(J) Parties should be prepared at the pretrial to establish a binding case management schedule setting forth a timetable for the amendment of the pleadings, the filing of motions, the exchange of documents, the termination of discovery, and the trial of the action. Such schedule shall be adopted as a written order of the court.

(K) At the time of the pretrial, the court may consider other appropriate matters in accordance with Civil Rule 16, as well as the imposition of sanctions as authorized by Ohio Civil Rule 37, and such other matters as will aid in the disposition of the case.

Rule 33. Trials

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

(B) Notice to the court of the withdrawal of a jury demand shall be made no later than seven days prior to the date of trial. In the event a panel of jurors appears for service and the trial is continued or postponed due to the failure of a party or his counsel to comply with this rule or to appear, such party shall be assessed the per diem costs of the panel unless waived by the court for good cause shown.

Rule 34. Trial Briefs and Jury Instructions

(A) Where a trial brief is required by order of court, counsel for each party shall file a copy with the clerk at least seven days prior to the commencement of trial.

(B) The brief shall state the issues involved, authorities upon whom counsel intends to rely at trial, a list of witnesses the party intends to call and a list of all exhibits the party intends to introduce at trial.

(C) In all jury cases, all parties, or the attorneys for the same desiring specific jury instructions shall, at least seven days prior to trial, file proposed jury instructions with the clerk, and serve the same upon opposing counsel.

Rule 35. Notification of Settlements

(A) In cases of settlement or voluntary dismissal, the court will accept notice of the same by telephone from the person pursuing each claim.

(B) If no judgment entry regarding settlement is received within the time allowed, the court will issue an entry of dismissal at the cost of the plaintiff.

(C) It shall be the responsibility of the plaintiff to notify the opposing party of the cancellation of any scheduled hearing due to voluntary dismissal unless otherwise ordered by the court.

Rule 36. Satisfaction of Judgment

Satisfaction of judgment in whole or in part of a judgment may be entered on the docket by the attorney of record, attested to by the Clerk or Deputy Clerk, or by journal entry signed by the party or the attorney of record and approved by the judge. No satisfaction of judgment shall be entered by the clerk unless all court costs have been paid.

Rule 37. Forcible Entry and Detainer

A. COMPLAINT

A complaint in Forcible Entry and Detainer shall be filed and shall contain a reason for the eviction, a copy of the notice under ORC § 1923.04, and a copy of the written instrument upon which the claim is founded, if any. 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

B. TRIAL

There shall be no "Answer Day" or "Call Day" as the term is used in other civil cases, and the trial date shall be set forth in the summons. Defendant shall be served at least seven (7) days prior to the date set for trial. Motions shall be heard at the trial, unless the judge directs otherwise. At the conclusion of the hearing on the first count, the judge shall file a judgment entry and cause a copy to be served upon all parties. If a second count for money damages has been filed, the hearing on the same shall be scheduled within sixty days of the hearing on the first count. The judge shall file a judgment entry and cause a copy to be served upon all parties.

C. CONTINUANCE

A continuance may be granted as provided in Ohio Revised Code § 1923.08.

D. ENFORCEMENT OF FIRST CAUSE JUDGMENT – WRITS AND MOVE-OUTS

1. If judgment is for plaintiff on the first cause (possession), unless otherwise ordered by the court, the plaintiff may request a Writ of Restitution after the date defendant is ordered to vacate the property and schedule a move-out with the bailiff or applicable law enforcement agency.
2. Writs must be timely requested and the proper fee must be paid prior to issuance of the Writ. Timely Writ is determined according to the following:
 - a. Within thirty (30) days of the date of the judgment, unless the judgment orders otherwise.
 - b. Where the judgment is more than thirty (30) days old, but less than sixty (60) days old, plaintiff must file a Motion for Leave to request a Writ and serve a copy of the motion on the defendant(s). The court may schedule a hearing on the motion or decide the motion on the filings of the parties. Upon the granting of the motion, plaintiff may obtain a writ and schedule a move-out.
3. Writs must be executed upon (the scheduled move-out must occur) within fifteen (15) business days of issuance by the clerk's office. If a move-out is stayed or canceled, and more than fifteen (15) business days pass between the date the writ issued and the new move-out date, the plaintiff must purchase a new writ.

E. SCHEDULING THE MOVE-OUT

In order to arrange for the physical removal of the defendant and their belongings, the following must occur:

1. Plaintiff must obtain a Writ of Restitution from the clerk;
2. Plaintiff must call the appropriate law enforcement agency or bailiff to schedule the move-out within five (5) days of obtaining the Writ.
3. Upon presentation of the receipt, the appropriate law enforcement agency or bailiff shall schedule a move-out date and inform the plaintiff of the scheduled date.

F. MOVE-OUTS

1. The actual physical move-out of defendant's belongings shall be conducted by the movers hired by the plaintiff.

2. On the scheduled date and hour, the law enforcement agency or bailiff shall meet the plaintiff, or his/her agent, at the premises. The law enforcement officers shall enter the premises and remove all inhabitants not lawfully entitled to possession. The movers shall then conduct the actual physical move-out and place the items on the tree lawn.
3. The court recommends that plaintiffs inspect the premises prior to scheduling the move-out date. On the scheduled move-out date, if the volume or nature of the contents of the premises is such that removal of the contents to the tree lawn would create a health or safety hazard, the move-out may be canceled. Thereafter, a new move-out date may be set in conjunction with a special waste collection as scheduled by the plaintiff. Although the costs of special waste collections are initially borne by plaintiff, plaintiff may plead such costs as damages.

SMALL CLAIMS

Rule 38. Authority, Purpose, and Jurisdiction

(A) The Small Claims Division is established and operated pursuant to Ohio Revised Code Chapter 1925

(B) The purpose of the Small Claims Division is to allow parties to resolve minor disputes quickly, inexpensively and fairly without requiring the services of an attorney. However, litigants are free to use an attorney if desired.

(C) The Small Claims Division of the court is for monetary judgments only. Complaints seeking the return of property, or an order requiring a party to perform a certain act, must be filed in the Civil Division.

(D) The monetary jurisdiction of the Small Claims Division is \$3,000, exclusive of interest and court costs, and subject to other provisions of law.

Rule 39. Corporation as a Party

A person not licensed to practice law in the State of Ohio may represent a corporation in a small claims hearing provided that:

1. the person refrains from acts constituting advocacy (examples: arguing points of law, cross examination of a witness, objecting to an opposing party; and
2. the person is an authorized officer or salaried employee of the corporation.

Filing a complaint and testifying as an agent is permitted. It is the sole responsibility of this person to not commit acts which would constitute the unauthorized practice of law pursuant to Ohio Revised Code section 4705.01.

Rule 40. Pleadings

(A) The plaintiff may begin a small claims action by filing a complaint and paying the required costs. The complaint should be written in plain, concise language. All pleadings will be construed to accomplish substantial justice.

- (B) No party is required to file a responsive pleading such as an answer to the complaint, counterclaim, cross-claim or third party complaint.
- (C) Upon the filing of the complaint, the case will be set for trial.

Rule 41. Counterclaims and Cross-claims

- (A) All counterclaims and cross-claims must be filed at least seven days before the scheduled trial.
- (B) Any party filing such pleadings shall send copies to all opposing parties by regular U.S. mail.
- (C) Any pleading which is not timely filed shall be stricken from the file. If the claim is timely filed, the clerk shall issue a notice of trial date to all parties.

Rule 42. Third Party Claims

- (A) Any party seeking to join a new party to a pending case must file a third party complaint at least seven days before the scheduled trial date.
- (B) The clerk shall serve the new party defendant with the third party complaint in the same manner as the original complaint.
- (C) Any pleading which is not timely filed shall be stricken from the file. If the claim is timely filed, the clerk shall issue a notice of trial date to all parties.
- (D) If a third party complaint is filed, the trial shall be moved to a date allowing the third party sufficient time to appear.

Rule 43. Continuances

- (A) A request for a continuance of a case set for trial shall be filed in writing at least seven days prior to the trial date.
- (B) The request shall be in writing and shall include:
 - (1) The case caption and case number;
 - (2) The reason for the request;
 - (3) The date and time of the scheduled trial;
 - (4) A statement signed by the moving party that he or she has notified the other parties in accordance with rules of service; and
 - (5) The signature of the party requesting the continuance, or of such party's attorney.
- (C) A request for continuance, when submitted in accordance with the above, will be granted at the discretion of the court for good cause shown. A continuance that has not been ruled on by the date of the hearing shall be considered to be denied.

Rule 44. Dismissals

A person asserting a claim may dismiss the claim by a written notice thereof to the clerk.

Rule 45. Subpoenas

All subpoenas or praecipes for subpoenas must be filed seven days prior to the scheduled trial date with the filing fee and witness fees paid at the time of filing.

Rule 46. Motions to Transfer to the Regular Civil Docket

(A) A motion to transfer a small claims matter to the regular civil docket shall be filed at least seven days before the scheduled trial date.

(B) When a counterclaim, cross-claim or third party claim exceeds the jurisdiction of the Small Claims Division, it must be accompanied by a motion to transfer.

(C) An untimely motion to transfer shall be stricken from the file.

(D) In the event the motion to transfer is not filed or is stricken from the file, the damage recovery will be limited to the monetary jurisdiction of the Small Claims Division.

Rule 47. Other Pretrial Motions

All pretrial motions shall be filed and served upon the opposing parties at least seven days before the scheduled trial date. Motions which are not timely filed shall be stricken from the file. Pretrial motions shall be heard at the time of trial. The filing of pretrial motions shall not excuse any party's failure to appear at trial.

Rule 48. Trial

(A) The trial shall be conducted by a judge. The parties shall be placed under oath and shall be given the opportunity to state their cases.

(B) At the conclusion of the trial, the judge shall prepare a decision or if the judge determines additional time is necessary the Judge shall prepare a written decision and mail the same to the parties in the case.

Rule 49. Evidence at Trial

(A) The Ohio Rules of Evidence do not apply to small claims cases.

(B) Any documents and witnesses that a party desires to be considered must be produced at the time of trial and cannot be produced afterwards. No continuances will be granted on the date of trial to submit additional documents or witnesses.

(C) Witnesses must be present in court. The court will not receive telephone calls from witnesses. Affidavits or written statements of witnesses will not be accepted as evidence.

(D) In cases involving a motor vehicle collision, the party seeking damages must submit at trial a certificate of title demonstrating his or her ownership of the subject vehicle.

Vehicle registration will not be accepted as evidence. Failure to comply with this rule will result in dismissal of the claim and denial of damages.