

LOCAL RULES

VAN WERT MUNICIPAL COURT

ADOPTED AUGUST 1, 2011

REVISED January 30, 2018

REVISED September 17, 2019

REVISED April 3, 2020

REVISED January 12, 2022

RULE 1

By virtue of the authority vested in the Van Wert Municipal Judge of Van Wert, Ohio the following rules are hereby adopted for the purpose of expediting the business of the Van Wert Municipal Court.

The Local rule of the Van Wert Municipal court, hereinafter set forth, shall be interpreted to promulgate the fair, impartial, open and courteous administration of justice under the constitution and Laws of the State of Ohio.

These Rules are established to assure, as nearly as possible, the orderly and efficient administration of justice in the Van Wert Municipal Court, consistent with the Rules of Superintendence, the Rules of Civil and Criminal Procedure, and other such Rules as may be adopted and published by the Ohio Supreme Court pursuant to the Ohio Constitution, Article IV, Section 5.

## CONFLICT

The rules set forth herein are designed as Local Rules under Rule 83 of the Ohio Rules of Civil Procedure, and in case of conflict herein, the Rules of Civil Procedure take precedence.

## RULE 1.01

### ADMINISTRATIVE AND DELEGATION OF AUTHORITY

This Court having only one full-time judge, said Judge shall serve as Administrative and Presiding Judge.

In addition to the duties as Administrative Judge, said Judge shall supervise and be responsible for the operation of the Court, and the support staff, including but not limited to the Clerk, Court Administrator, Deputy Clerks, Bailiffs, and Probation Officers.

The Court Administrator shall supervise and oversee the function of the Court, including personnel, and Court operations, excepting those responsibilities and duties that are exclusive to the Judge of this Court.

The Administrative Judge shall set the hours of Court, staff hours, approve all vacations, leave time, set and allocate pay levels, assign specific duties and work to staff, and delegate authority as appropriate.

## RULE 1.02

### MAGISTRATE

The Magistrate shall be appointed by the Presiding Judge. Actions may, upon motion of any party or on the Court's initiative, be referred to a Magistrate. Unless otherwise limited by the order of reference, the Magistrate shall have all powers conferred by Civil Rule 53, Traffic Rule 14, and Criminal Rule 19, and all proceedings, decisions, orders and objections, if any, shall be governed by Civil Rule 53, Traffic Rule 14, and Criminal Rule 19.

#### RULE 1.03

#### COURT RECORDS

All indexes, dockets, journals, file records, and case files shall be maintained by the Clerk, pursuant to law and at the direction of the Judge of this Court. Upon reasonable request, all such records shall be open to inspection by anyone during regular business hours, provided such inspection does not interfere with the operation of the Court or the office of the Clerk.

No indexes, dockets, journals, files records or case files shall be removed from the Clerk's office, except for use by the Court in the courtroom, chambers or for storage.

#### RULE 1.04

#### HOURS OF THE COURT

The Van Wert Municipal Court shall conduct its docket from 8:00am until 4:00pm, Monday through Friday, legal holidays excepted, subject to temporary modification by the Court to meet emergencies, the requirements of particular cases or the administration of the Court.

## RULE 2

### COURT SESSIONS

- A) The Court shall be open Monday through Friday from 8:00 am to 4:00 pm. There will be no Court on days that the Van Wert Municipal Courthouse is closed.
- B) All cases will be heard at the Van Wert Municipal Court at 102 East Main Street, Van Wert, OH 45891, unless a conflict exists.
- C) Court protocol will be as follows:
- {1} All persons in the Courtroom will stand while the Court is being opened and recessed.
  - {2} All attorneys, law enforcement officers, or any other interested party, are reminded that ex parte conversations with the Court may give the appearance of impropriety and are thus discouraged.
  - {3} There will be no smoking, eating or drinking in the Courtroom. Persons with small children will take appropriate action to ensure Court proceedings are not interrupted.
  - {4} All law enforcement officers will wear their appropriate uniforms while in attendance at a formal court hearing. The wearing of a sidearm is left to the officer's judgment but may be restricted on an individual case basis by the Court.
  - {5} Parties or those interested in attending proceedings of any pending case in Court must wear appropriate attire. Excessive or distracting

dress may be deemed inappropriate by the court and removed from the Courtroom. Shoes must be worn at all times in the Courthouse. No hats will be worn in the Courtroom.

{6} Attorneys appearing for Court hearings or on Court related proceedings shall wear appropriate attire (coat and tie for male attorneys and appropriate business dress for female attorneys).

{7} Court files, both civil and criminal, can only be handled by authorized court personnel. No one other than Court personnel may enter any filing cabinet in the Clerk's office to look at any file.

{8} The Court's copy machine is there primarily for use by the Court's staff. On occasion, if an extra copy of a document is needed, use of the Court's copy machine is permitted. However, abuse of this privilege will not be tolerated.

{9} The Clerk's Office does not provide secretarial support to any other office than the Municipal Court.

{10} Each of the Municipal Court staff has an office area. Please refrain from entering that office area as our staff may be working on sensitive material.

{11} Do not walk into the Judge's office without permission to enter. If the door is open, please knock first and wait to be acknowledged in. If the door is shut, ask one of the staff members to contact the Judge by intercom.

{12) All cell phones, pagers or other electronic devices shall be turned off while the Court is in session.

(13) Anyone found violating these rules may be subject to immediate expulsion from the Courtroom and/or Courthouse.

D) At all criminal/traffic pre-trial conferences, the defendant's presence is required, unless prior approval has been obtained. Any telephone pre-trials must be arranged ahead of time with approval of the Court.

E) All sessions of the Court will be recorded with a recording device by the duly appointed deputy clerk or clerk in attendance during its operation. (See the Record's retention section for length of storage).

F) If a stenographer is requested for any hearing, the party requesting the stenographer must file a motion with the court in writing within ten (10) days before the hearing date requesting a stenographer be scheduled by the Court. Costs for a stenographer for jury or non-jury matters will be assessed to the party making the request.

G) The Court recognizes the necessity to assure all persons appearing before said Court shall understand their legal rights and the consequences of any pleas made upon arraignment. Each defendant will view a video recording, presented by the Judge, instructing them of their rights and options for pleas on arraignment days. For those defendants who speak Spanish, a written definition of their rights will be presented to them.

H) The Court understands that a defendant may not be able to financially afford legal representation. If a defendant desire a court appointed attorney, they are

given a “Worksheet” to fill-out regarding their indigence. Upon completion of that form, the Judge makes a conditional determination. At that point, they will be given a paper telling them which attorney has been appointed with their name, address and phone number. It is then the responsibility of the defendant to then contact counsel appointed on their behalf.

### RULE 3

#### PLEADINGS

The clerk shall file and carefully preserve in the office of the clerk all papers delivered to the clerk in every action or proceeding. No original papers or depositions in any case or proceeding shall be removed from the office of the clerk, except for the use in court or by the Court, except on written order of the Court.

### RULE 4

#### FILING BY ELECTRONIC TRANSMISSION

The Court provides for the filing of pleadings and other papers by electronic means. All pleadings and other papers may be filed with the Court by facsimile (419–238-0301) transmission or by electronic mail transmission (vanwertmunicourt@gmail.com) subject to the following provisions:

A). A document filed by electronic means will be accepted as original and the signature accepted as original. The electronic documents need not be followed with the original pleadings or other papers, but the originals must be

maintained by the filing party and are subject to inspection by the Court if requested.

B) The attorney or other parties must provide the following information on the fax cover page of a facsimile transmission:

- (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) If a judge or case number has not been assigned, state that fact on the cover page
- (9) The name, address, telephone number, fax number, supreme court Registration number and, if applicable, an e-mail address of the person filing the document if available, and;
- (10) If applicable, a statement explaining how costs are being submitted.

Transmissions without such information will not be accepted for filing. A transmitted document must be no longer than ten (10) pages not including the cover page and must pertain to only one case.



- C) The Clerk shall notify the attorney or other parties if the transmitted document cannot be filed for any reason. All documents submitted will be considered filed only when the date/time has been stamped by the Clerk and the document has been properly docketed.

## RULE 5

### JURY SELECTION

- A) Jurors to be used in the Van Wert Municipal Court shall be chosen and summoned by the jury commissioners of Van Wert County as provided in Sections 2301.01 to 2313.26, inclusive, of the Ohio Revised Code, subject to the exceptions herein set forth. The Court shall notify the Election Board of Van Wert County of the number of jurors needed in the Van Wert Municipal Court for the next calendar year.
- B) The judge may excuse a juror for good cause shown with such excuse to be in writing and signed by the judge. Such excuse may be for a particular date or dates or for the entire term.

## RULE 6

### JURY TRIAL AND DEMANDS

- A) A demand for a civil jury trial shall be made as required by Civil Rule 38 and shall be accompanied by a deposit as security for the first day jury cost. Said sum shall be first collected at the time of the filing of the complaint or responsive pleading demanding said trial by jury. In the event that either deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to

a trial by jury. Otherwise, the deposit shall be refunded to the party posting it at the conclusion of the case. In the event a party claims to be indigent and unable to post the deposit, an affidavit as to such indigence shall be filed with the demand for jury, and the Court may summon the party into court for further investigation of the claimed indigence.

- B) In the event a civil case is settled or dismissed prior to the trial and is not possible to notify all jurors of such cancellation, the requesting party shall bear the cost of juror fees for those jurors who report on the day of trial.

## RULE 7

### JURY QUESTIONNAIRE

Jury questionnaires shall be submitted to potential jurors and shall be available for review by any party or their counsel one (1) week prior to trial. Upon completion or termination of the trial, the Court shall gather any jury questionnaires previously distributed and dispose of the same.

## RULE 8

### CONTINUANCES

- A) Every request for a continuance shall be in written motion and will only be granted upon showing of good cause. All requests shall be served on the opposing counsel or the opposing party. The motion shall set forth the date from which a continuance is requested and reasons for the continuance. If a prior trial conflict exists, the date of scheduling shall be stated, with a copy of the notice attached to the motion. Entries

shall accompany the motions with blanks for the new trial time and date, and if agreed to by opposing counsel. No request for continuance will be considered if made less than seven (7) days before trial except for circumstances which by reasonable diligence could not be determined seven (7) or more days prior to trial. It is suggested that counsel provide available dates to the Clerk.

B) When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, cases set in federal court and common pleas courts trial shall have priority and shall be tried on the date assigned. With regard to other cases set in municipal or county court, those cases set first in time shall have priority. Criminal cases assigned for trial have priority over civil cases. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court. If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the Judge may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by the court, the court shall appoint a substitute trial attorney.

## RULE 9

### COURT COSTS AND SECURITY DEPOSITS

The schedule of costs, security deposits, and filing fees for all cases in the Van Wert Municipal Court will be as set forth by separate order of this Court.

## RULE 10

### FILING OF PLEADINGS, MOTIONS, ETC.

- A) In every pleading, motion, or document filed on behalf of a party or parties, there shall be set forth in the caption the names of all parties with complete addresses, if known, whose names appear in the proceedings for the first time. Every pleading, motion, or document filed on behalf of a party shall have printed or typed thereon the name, address, telephone number, and attorney registration number of counsel filing the same, and if filed by a law firm, the name of the particular attorney having primary responsibility for the case shall be indicated thereon. Sufficient copies of every pleading, motion or document to be served by the Clerk, bailiff, or sheriff, shall be filed with the Clerk. The Clerk shall make a copy of any pleading, motion or document for the use of any counsel of record who has not previously been supplied with a copy, and charge the expense thereof as costs in the case.
- B) In all cases where the filing of a pleading or amended pleading is not fixed by law or another rule, the pleading or amended pleading shall be served on or before the fourteenth (14<sup>th</sup>) day after the date of the entry requiring or granting leave for the filing of such pleading or amended pleading, or overruling or sustaining a motion, unless otherwise specified in the entry. The opposing party shall move or plead to the pleading or amended pleading so filed on or before the fourteenth (14<sup>th</sup>) day after such pleading or amended pleading is filed, unless otherwise

ordered by the Court. Where a case is transferred from small claims court to the regular docket of the Court pursuant to Section 1925.10 Ohio Revised Code, the answer of the defendant or defendants shall be filed within fourteen (14) days of the date of the entry ordering such transfer.

- C) It shall be the duty of the party or attorney filing a pleading, written motion, or brief subsequent to the complaint to mail or deliver a copy thereof to each party to the case, or the attorney for such party. Failure to comply with this rule shall be sufficient cause to strike the pleading, motion, or brief from the files. If a copy of a pleading is to accompany a summons to be served in the case, it shall be sufficient compliance with this rule to deposit such copy with the Clerk. The fact of such mailing or delivery to the adverse party shall be noted on the original. Insofar as the party filing a document is aware of the judge to whom the case is assigned, he shall note the same between the Case Number and title of the document in the caption.
- D) In the absence of a request to the Court for an oral hearing, notice of which request shall have been previously given to opposing counsel, a motion shall be deemed submitted on written briefs unless the opposing counsel requests in writing an oral hearing, which request shall be submitted within seven (7) days of receiving the motion.
- E) Pleadings, motions, or other documents not complying with this rule of Court shall not be accepted for filing by the Clerk.

## RULE 11

### WITHDRAWAL OF TRIAL COUNSEL

- A) Counsel shall be allowed to withdraw from trial counsel responsibility in cases where counsel was designated only with the consent of the judge assigned to the case.
- B) In the absence of judicial assignment, or in the absence of the assigned judge, such application shall be made to the Court. No such application will be considered unless a written entry or motion is presented stating the reasons for the application. The entry or motion will contain the following:
- (1) The time and date of trial, if set.
  - (2) A certification of service to opposing counsel
  - (3) Certification that the client has been notified that the attorney is seeking to withdraw from the case.
  - (4) Counsel's professional statement that, if allowed, a copy of the entry will be mailed immediately to the last known address of the client.
- C) Withdrawal of counsel within five (5) court days of any hearing assignment shall not be permitted.

## RULE 12

### CHANGE OF TRIAL COUNSEL

Once trial counsel has been designated, such designation shall remain until termination of the case. Change of trial counsel may be permitted by the Court upon the filing of an entry containing the designation of new trial counsel and the agreement of prior trial counsel and provided such change will not delay the trial of such case.

## RULE 13

### PREPARATION OF PAPERS IN CIVIL CASES

No official or employee of this Court is permitted to prepare or assist in preparing any pleadings, motions, or other documents on behalf of a party to a case to be filed in this Court or which may be pending in this Court. This prohibition is not applicable to assistance required by law to be rendered to parties in the small claims division of this Court, or minor typing assistance, such as corrections of errors or last minute changes on papers filed with the Court, if requested and supervised by the filing party, or ordered by the Court.

#### Rule 17. Pretrial Procedure for Civil Cases

- A) The pre-trial procedure called for in Ohio Civil Rule 16 shall be used by this Court, insofar as may be applicable or practical, in all contested civil cases, that is, civil cases which are at issue on an answer or a reply to a counterclaim.

- B) It is the order of this Court that attorneys appear for pre-trial conferences as scheduled, and that the parties to the case, or representative of the party, also appear unless dispensed from appearance by the Court (service of notice pursuant to Civil Rule 5 is hereby deemed sufficient as to the notice of pre-trial). Unless leave of Court is first obtained, failure of plaintiff or plaintiff's attorney to appear at a scheduled pre-trial conference may be grounds for dismissal of the case pursuant to Ohio Civil Rule 41 (B)(1); failure of any other party or their attorney to appear may be deemed a contempt of this Court, and punished accordingly.
- C) Continuances of pre-trial conferences may be granted upon the showing of good cause, and no continuance shall be granted without approval of the judge before whom the pre-trial is scheduled.

#### RULE 14

#### FAILURE OF SERVICE

In the event there is a failure of service of summons, the complainant or his attorney shall make additional effort within six (6) months from the date the cause of action was filed. If the complainant or his counsel fail to comply with this rule, the Court may proceed to dismiss the case for failure to prosecute pursuant to Ohio Civil Rule 41.



## RULE 15

### CASEFLOW MANAGEMENT IN CIVIL CASES

- A) The purpose of this rule is to establish, pursuant to M.C. Sup R 18, a system for civil case management which will achieve the prompt and fair disposition of civil cases.
- B) Summons shall be served in accordance with the Ohio Rules of Procedure. In the event there is a failure of service, the Clerk shall notify counsel immediately. If counsel fails to obtain service in summons within six (6) months from the date the cause of action has been filed, then the Clerk shall notify counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.
- C) After any responsive pleading is filed, the Clerk shall immediately forward said pleadings and file to the judge so the matter may be set for hearing. If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within thirty (30) days unless good cause is shown. When a file has been marked “settlement entry to come” and the entry has not been received within thirty (30) days, then the Clerk shall notify the party that his cause will be dismissed unless the entry is received within thirty (30) days.
- D) Status Hearing: After an answer is filed, the case will be assigned by the Clerk for trial and the Clerk will forward the file to said Judge.

The Court will then set a status hearing which may be heard in court or by phone. The purpose of the status hearing is to set discovery and motion deadlines so a formal pretrial can be set.

- E) Motions: All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless time is extended by the Court. There will be no oral hearing granted in said motions unless the parties request an oral hearing in writing and the court deems it necessary.
  
- F) Pre-trial conferences: For the purpose of this rule, "Pre-trial" shall mean a conference chiefly designated to produce an amicable settlement. The terms "Party" or "Parties" used hereinafter shall mean the party or parties to the action, and/or, his, hers, or their attorney of record. Any attorney for a party to the action, who fails to attend a scheduled pre-trial conference, without just cause being shown, may be cited for contempt of this Court. Notice of pre-trial conference shall be given to all counsel of record by mail and/or personally from the assignment commissioner not less than seven (7) days prior to the conference. Any application for continuance of the conference shall be addressed to the Judge. Counsel attending the pre-trial conference must have complete authority to stipulate on items of evidence and must have full settlement authority. The

primary purpose of the pre-trial conference shall be to achieve an amicable settlement to the controversy in suit. The Court may require the parties to file a pre-trial statement to become part of the record and the case embracing all stipulations, admissions, and other matter which have come before it at pre-trial. In addition, the Court may determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. The Court, while presiding at a pre-trial conference, shall have the authority to dismiss the action for want of prosecution on motion of defendant upon failure of plaintiff, and/or his counsel to appear in person at any pre-trial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the defendant to appear in person or by counsel at any pre-trial conference or trial; to make such other order as the court may deem appropriate under all the circumstances . If the case cannot be settled at pre-trial, then the case will be set for trial at a time agreeable to all parties.

Judgment Entries: Counsel for the party in whose favor an order of judgment is rendered shall prepare a journal entry unless the trial judge indicates that she will prepare same; if court-prepared, the entry will not be submitted for approval. If counsel-prepared, the entry shall be submitted to opposing counsel within fourteen (14) days of the decision. Opposing counsel shall approve or reject the entry within seven (7) days or the same shall be transmitted to the court marked "unapproved". Within twenty-one (21) days of the decision, the journal entry shall be submitted to the judge for signature. Entries of settlement may be filed

at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within thirty (30) days or the case will be dismissed for want of prosecution. The journal entry shall state which party will pay the court costs.

## RULE 16

### ASSIGNMENT OF CASES

All cases are subject to being assigned for pre-trial or trial at any time after the expiration of a full day from the time the issues are made up, unless they are otherwise disposed of by dismissal, settlement, continuance, or upon the order of the Court. All cases will be heard on the day assigned for pre-trial or trial, and continuance to a day certain will only be granted upon the demonstration to the satisfaction of the Court of the necessity for the continuance.

## RULE 17

### DEFAULT JUDGMENT

- A) A party seeking a default judgment pursuant to Ohio Civil Rule 55 shall file a written motion and proposed Judgment Entry with the Clerk of Court. Military Affidavits pursuant to the Soldiers and Sailors Relief Act shall be filed with the proposed entry, unless filed earlier.
- B) If the claim is liquidated, in addition to the motion, the moving party shall file an affidavit or memorandum containing sufficient information in support of the claim. If the claim is unliquidated, or if the party against whom judgment by default is sought has appeared in the action,

or both, then a hearing is required before the Judge. In these cases, the motion for default judgment must include, on the face of the motion, notice of the date and time of the scheduled hearing on the motion. Service of the motion and notice of hearing shall be made on the opposing party in accordance with Rule 4(c) and not less than seven (7) days before the scheduled hearing. The moving party shall be responsible to show that the other parties have been properly served as required by this rule. At the hearing on the unliquidated claim, the moving party shall present evidence to support the award of the default judgment. The Court may require testimony under oath or by affidavit.

- C) At the conclusion of the hearing, if the Court is satisfied that service of summons and complaint has been obtained, and the evidence presented establishes the party's entitlement to judgment, the Court shall prepare a decision and file it with the Clerk. Copies of the Court's decision shall be served upon the parties or their attorneys by the Clerk.

#### RULE 17.1

#### CALCULATION OF ANNUAL INTEREST

When calculating the per annum interest on a judgment or garnishment granted by the Van Wert Municipal Court, or granted by any other court but collected through the Van Wert Municipal Court, the interest shall be calculated accordingly. The interest rate should be taken from the Ohio Department of Taxation, annual certified interest rates. Proper calculation is taking the per annum interest granted within the case and dividing it by 12. Then multiplying the principal remaining each month by one twelfth of the per annum interest.

ie. 5% per annum interest on a \$1,500.00 judgment. 5% divided by 12 - .00416

Month 1 - \$1,500.00(principle of judgment) x .00416 - \$6.24 in interest

Payment received of \$500.00 in Month 1

Month 2 - \$1,000.00(principle of judgment) x .00416 = \$4.16 in interest

Total interest to be collected for Month 1-2 is \$10.40.

## RULE 18

### SALES AND PROCEEDING IN AID OF EXECUTION

The bailiff shall follow the procedure set forth in Section 2329.13 et seq. of the Ohio Revised Code in the advertising and conducting of sales on attachment, execution, or foreclosure of chattel mortgages. In all attachments or executions to be levied upon personal property, the attorney or party shall describe in detail those items which are to be levied upon; an instruction to “levy upon all goods and chattels: is not sufficient. Information must be supplied to the bailiff with made an accurate estimate as to the cost of the proceedings, and so that he can require a sufficient deposit to secure costs before proceeding with the execution or attachment. If the item to be levied upon is an automobile or other motor vehicles the party or this attorney shall furnish the bailiff with an accurate description of automobile or motor vehicles, a license number or series number, and a written statement as to whether there is a lien of record on the vehicle in the office of the Van Wert County Clerk of Court. Before the bailiff proceeds to levy upon the vehicle, he shall determine whether there are any liens on it, and he shall also determine the fair market value of the vehicle to be determined by three (3) appraisers. If there is a lien on the vehicle, the name of the lien holder shall appear on the notice of sale. If the bailiff determines that the vehicle, when

sold, will not bring a sufficient amount to cover the cost of towing, storage, appraisal, advertising and other court costs, the shall require the party seeking the levy to post an additional deposit for costs to cover these expenses before proceeding with the levy. If the sale will encompass many items, the bailiff may secure the services of an auctioneer and proceed in accordance with Section 2335.021, Ohio Revised Code.

## RULE 19

### SUBSTITUTION OF PARTIES

Substitution of parties, at any state of the proceedings, must be by motion and order of the court. An assignment of judgment or other transfer of interest will not be effective unless it is approved by a judge's entry. The motion for substitution may be made by any party or by the successor of any party and, together with a notice of hearing, shall be served on the parties as provided in Civil Rule 5, and upon persons not parties in the manner provided in Civil Rule 4 through Civil Rule 4.6 for the service of summons. Collection actions or other proceedings brought by assignees or agents are not permitted in the Small Claims Division [R.C. 1925.02(A)(2)(a)(ii)]. Therefore, any request to substitute parties in such actions must be proceeded by a motion to transfer the case to the regular docket of the court.

## RULE 20

### GARNISHMENT PROCEEDINGS

All garnishment proceedings shall be in the form required by Section 2715.11 Ohio Revised Code, and the garnishment papers will be properly filled

out, including date. They will be accompanied by the proof of service of the demand required by Section 2715.02 Ohio Revised Code, and by the garnishee's fee provided by Section 2715.111, Ohio Revised Code. The Clerk of this Court is instructed to refuse to accept for filing any garnishment papers not complying with this rule. The Court will accept no more than two (2) other than personal earnings garnishments for each defendant at a single filing.

## RULE 21

### JUDGMENT DEBTOR EXAMINATION

Judgment debtor examinations may be scheduled in front of the Court upon the specific request of the parties. All others shall be held outside the hearing of the Court. If the judgment debtor fails to appear after having been served with the order to appear, contempt of court proceedings shall be initiated against the judgment debtor, unless the Court directs that other action be taken.

## RULE 22

### TRUSTEESHIP

Sections 2392.70 and 2329.71 of the Ohio Revised Code shall govern all applications for trusteeship in this Court.

## RULE 23

### FORCIBLE ENTRY AND DETAINER FILINGS

All forcible entry and detainer cases filed with the Court must include a copy of the property deed and copy of lease/rental agreement. If the rental agreement were a month-to-month agreement, oral (without a written lease



agreement), or any other circumstance where a 30-day notice shall be required as identified by Ohio statute or case law, an executed 30-day notice AND three-day notice to leave premises are required unless exemption is met. The Court requires the 30-day notice to be in a documented articulable form to the defendant, ie. text or writing.

All limited liability companies (LLC), businesses, trusts, estates, and partnerships must be represented by legal counsel. Failure to be properly represented may result in a dismissal of the action at the plaintiff's cost.

**\*\*Sample 30-day notices and three-day notices are available at the Court\*\***

## RULE 24

### FORCIBLE ENTRY AND DETAINER HEARINGS

The 30-day notice must be provided in a documented articulable form to the Court.

The three-day notice must be served pursuant to the Ohio Revised Code 1923.04. The three-day notice must include the following language written in a conspicuous manner: "You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance." To be considered conspicuous language, the Court requires the language in print or writing, bolded, all capitalized, and set apart in the document by asterisk or placed inside of a box.

All forcible entry and detainer cases shall be set for hearing before the Court pursuant to the time limits set forth in the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of Civil Procedure will be applied. The Court requires all parties to provide three (3) copies of exhibits marked properly to the Court before the hearing; failure to do so could result in the Court denying the use/introduction of the exhibits. The Court shall make its findings either orally or in writing, at the discretion of the Court.

## RULE 25

### FORCIBLE ENTRY AND DETAINER POST-JUDGMENT

When a judgment has been rendered ordering a defendant to vacate the premises, the bailiff shall not proceed until there is filed with the Court a praecipe requiring such action, and the praecipe shall be accompanied by a deposit in accordance with the Court's Court Costs Schedule.

All post-judgment action requests involving a mobile home shall be filed pursuant to the Ohio Revised Code. It is required to have been stated in the Complaint Forcible Entry and Detainer the legal owner of the mobile home.

## RULE 26

### SMALL CLAIMS DIVISION

- A) Pursuant to Section 1925.01, Ohio Revised Code, and Ohio Civil Rule 53, the position of Small Claims Court magistrate has been heretofore established by the Court. The appointments to fill any vacancy in the

position shall be made by the judge of the Court, and the appointee shall serve at the pleasure of the judge for such term as he or she deem advisable.

- B) The deputy Clerk of the Court assigned to Small Claims Division shall be responsible for assisting persons to file small claims complaints, entering these complaints in the docket, setting them for hearing, receiving the Court costs and money paid on judgments, and accounting for the same.

## RULE 27

### SMALL CLAIMS COURT

- A) A small claims action is commenced by filing a Small Claims Complaint, pursuant to Ohio Revised Code Section 1925. No defendant is required to file an answer or statement of defense. However, should the defendant fail to appear for the hearing, after being duly served, then a default judgment may be entered against said defendant. All pleadings will be construed to accomplish substantial justice.
- B) Upon filing of motion and affidavit, as required by Ohio Revised Code 1925.10(B), and upon payment of the required cost, the small claim may be transferred to the regular docket. No transfer will be granted until the filing costs are paid. If a defendant, the same shall reduce his affidavit to answer or more as though served with complaint within fourteen (14) days of the date of his filing.

- C) Hearing: The hearing in Small Claims Court shall be conducted by the Court. The Court shall place all parties who plan to offer evidence under oath and then allow the plaintiff and defendant to state their case. The plaintiff and defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure will not apply to a hearing in Small Claims Court.
- D) Collection of Judgment: The employees of the court shall assist the prevailing parties in collecting their judgments pursuant to Ohio Revised Code Section 1925.13.

## RULE 28

### CASE MANAGEMENT IN SPECIAL PROCEEDINGS

- A) The purpose of this rule is to establish, pursuant to M.C. Sup R 18, a case management system for special proceedings to achieve prompt and fair disposition of these matters. The following civil matters are considered special proceedings and may be heard by a judge or Court, to wit: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, motion to cite, garnishment hearings, debtor's exams and Bureau of Motor Vehicles appeals. The following criminal matters are considered special proceedings and they are to be heard by a judge, to wit: Preliminary hearings and Extradition hearings.
- B) Cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special

proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

- C) In all new cases, if counsel fails to obtain service of summons within six (6) months, the Clerk shall notify counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.
- D) After any responsive pleading is file, the Clerk shall immediately forward said pleading and file to the judge so the matter may be set for a hearing.
- E) If no action has been taken on a file for a six (6) months period and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within thirty (30) days unless good cause is shown.
- F) When a file has been marked “Settlement to Come” and the entry has not been received within thirty (30) days, then the Clerk shall notify the party that the case will be dismissed unless the entry is received within thirty (30) days.

### III. CRIMINAL RULES

#### RULE 29

##### ARRAIGNMENT AND VIDEO ARRAIGNMENTS

- A) Arraignments shall be held at 10:00 am on Mondays and 9:00am on Thursdays for incarcerated individuals; Mondays at 11:00 am for crimes with a victim and Mondays at 1:30 pm and Thursdays at 10:00am for

other traffic and criminal cases, when Court is in session, and at such times as the judge deems appropriate. Whenever a holiday falls on a Monday and court is closed, arraignments will be held on the next business day.

B) In particular cases arraignments may be conducted by video link up with the Van Wert County Jail or other designated detention facility. If a video arraignment is scheduled, counsel will be directed to proceed to the Van Wert Municipal Court. The arraignment will be conducted in open court and the arraignments shall be open to the public.

## RULE 30

### AFFIDAVITS AND COMPLAINTS

All criminal and traffic cases shall be commenced in this court by the filing of a complaint. All complaints shall state the name of the offense charged and shall contain the numerical designation of the statute or ordinance. All complaints and traffic citations must be accompanied by a LEADS or separate piece of paper containing the Social Security number. If a warrant is requested on a complaint, the complaint shall be accompanied by an affidavit of fact pursuant to Ohio Criminal Rule 4(A)(1) whereby the Court can determine probable cause. An affidavit of fact merely phrased in statutory language and in substantially the same language as the complaint is not sufficient. In the alternative, the Court may hold a probable cause hearing in open Court before authorizing the issuance of the warrant. Complaints may be in statutory language, but should not contain surplus language from the statute or ordinance which is not involved in the case. The clerk of this Court and the deputy clerks of the court shall not prepare or

actively assist in the preparation of criminal or traffic complaints. This prohibition is not applicable to minor typing assistance, such as corrections of errors or last minute changes on papers filed the court, if requested and supervised by the filing party, or ordered by the Court.

## RULE 31

### NUMBERING AND ACTIONS

Cases are to be categorized as to criminal or traffic, and will be serially numbered within each category. They will be identified by the year in which they are filed. Where, as the result of the same act, transactions, or series of acts or transactions, a defendant is charged with more than one misdemeanor, one case number shall be used, together with an additional letter of the alphabet identifying the particular case in sequence.

## RULE 32

### TRAFFIC VIOLATIONS BUREAU

The Traffic Violations Bureau of the Court is established by a separate entry.

## RULE 33

### BAIL, FINE AND COSTS SCHEDULES

The Court has established a bail schedule for criminal and traffic offenses by separate entry. The Court may accept a Surety Bond from a pre-approved bail bond company. Any bonding company which wants to be an approved bonding company must first schedule a meeting with the Clerk and/or Judge to discuss our

Court procedures as well as their operating practices along with all their proper certifications.

## RULE 34

### SESSIONS OF COURT

Sessions of court shall be divided into particular session and individual assignment session, in accordance with the Rules of Superintendence for Municipal and County Courts.

## RULE 34.1

### SPECIALIZED DOCKET

#### CREATION OF SPECIALIZED DOCKET – “VETERANS’ TREATMENT COURT”

Veterans’ Treatment Court is created pursuant to the specialized docket standards set forth in Sup. R. 36.20 – 36.28, including Appendix I. The purpose of Veterans’ Treatment Court is to facilitate efficient and effective treatment to eligible veterans suffering from drug addiction or mental health issues. Eligible offenders shall be supervised by the Probation Department to ensure compliance with sanctions and to assist the participant with their specific needs. These court sessions will be held on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday of each month. Treatment team meetings to begin at 9 am and Court hearings to begin at 10 am.

## RULE 35

### NOTIFICATION AS TO CASES SET FOR HEARING

The Court will notify the Law Director or his assistant, the attorney for the defendant, and the defendant as to the dates of any hearings. Notices shall be



deemed sufficient if sent to the last known address listed on the papers making up the file on the case. It is the order of the Court, that all parties notified of a hearing appear before the Court at the time designated unless otherwise excused from attendance by the Judge. The Court will utilize electronic mail as a way to send notices to all parties in a case. Notices will be sent to the Law Director by electronic mail. When an e-mail address is provided by defense counsel, the Court will send notice by that means. The defendant is given the opportunity to have notices sent by electronic mail at each hearing. If the defendant chooses to use electronic mail notices will be sent by that means.

## RULE 36

### PRE-TRIAL PROCEDURE IN CRIMINAL CASES

When a jury demand is filed in a criminal case, or when it is indicated to the Court that a jury is desired in a criminal case, the case will be assigned for trial and for pre-trial conferences. It is the order of the Court that the law Director or his assistant, the defendant's attorney, and the defendant be notified of a pre-trial conference in criminal cases and attend the pre-trial conferences unless dispensed from attendance by the Court. Unless leave of Court is first obtained, any attorney or person required to attend their pre-trial who fails to appear for the pre-trial, may be cited for contempt of Court. No criminal or traffic case will be reduced or dismissed after the last pre-trial unless parties show good cause excusing their failure to reach the result of the pre-trial, and the Court may conduct an examination into the causes of said failure, in granting leave.

## RULE 37

### COUNSEL FOR INDIGENT DEFENDANT

A) When the defendant in a criminal case, other than a minor misdemeanor, indicates to the Court that he is indigent and desire counsel, the Court shall refer him or her to appointed counsel following a brief preliminary qualification to be held in open court. The judge, in the absence of appointed counsel, in criminal and traffic arraignments may:

{1} Enter a plea of “not guilty” on behalf of an indigent defendant

{2} Direct that the defendant proceed to the designated attorney’s office or return to court at a specific date and time to meet with designated counsel, or direct appointed counsel to meet defendant at Van Wert County Corrections.

{3} Conduct a preliminary bail hearing, set the bail, with the appointed counsel being permitted to move for additional in-court bail hearings as the designated attorney in the case sees fit, and

{4} Generate and file an appropriate journal entry recording the foregoing acts. In all subsequent proceedings, the designated counsel shall be treated and be responsible as through privately retained.

B) At arraignment, a defendant may be required to answer questions under oath about his or her financial ability to obtain counsel. The defendant may also

be required to complete a certification of assets to verify indigence and eligibility for the appointment of counsel. The Court reserves the right to examine the documents comprising the investigation of the defendant's indigence, and shall require the filing of the prescribed form of the Ohio Public Defenders Office regarding the individual defendant.

C) Appointments will be made from such lists taking into consideration the qualifications, skill, expertise and case load of the appointee in addition to the type, complexity, requirement of the case, and management of existing caseload.

D) The Court shall review Court appointment lists at least twice annually to ensure the equitable distribution of appointments.

## RULE 38

### DEMAND FOR JURY TRIAL

In criminal cases the demand for jury trial must be filed within the time limits set forth in Ohio Criminal Rule 23(A) that is not less than ten (10) days prior to trial date, or on or before the third day following receipt of notice of the day set for trial, whichever is later. Failure to demand a jury trial within the time limits set forth is a complete waiver of the right to trial by jury, and absolutely no exceptions to this rule will be allowed.

## RULE 39

### WAIVER OF JURY

Once a written demand for jury has been filed, any subsequent waiver of jury trial shall be made in writing at least eight (8) days prior to the trial date. Failure to abide by this rule will result in defendant's paying all jury fees and expenses incurred by reason of such demand, unless otherwise ordered by the Court.

## Rule 40

### JURY QUESTIONNAIRES

Jury questionnaires shall be submitted to potential jurors and shall be available for review by any party or their counsel one (1) week prior to trial date.

## RULE 41

### SUBPOENAS

It is the responsibility of the counsel for the parties to see that subpoenas for prosecution witnesses are properly requested. Once subpoenas are issued, the Law Director or his assistant shall determine whether service has been obtained for the purpose of assuring service before trial or hearing date. All praecipe for witnesses shall, unless the case is set for trial less than five (5) business days in advance, be filed not less than five (5) business days prior to trial date. For example, if a trial is scheduled for Friday, and more than seven (7) days notice of the trial date is given, then the praecipe must be filed on the Friday BEFORE the trial to be in compliance with the Local Rule. It is the responsibility of

defendant or his attorney to see that defense witnesses are properly subpoenaed, and that once subpoenas are issued, that proper service has been obtained. All praecipe for witnesses shall, unless the case is set for trial less than five (5) days in advance, be filed not less than five (5) business days prior to trial date.

## RULE 42

### MODIFICATION OF DRIVER'S LICENSE SUSPENSION

In making application for modification of the court order suspending driving privileges, a written application shall be submitted contained the following:

{1} the reason for the application

{2} the distance from home to place of employment

{3} the hours of beginning and ending of work for each day requested;

{4} if the request is for driving privileges during hours of employment, a statement of whether employment will be terminated if the request is not granted; and

{5} the type of vehicle to be operated and the owner of the vehicle.

The application shall be accompanied by a liability insurance policy which is personal to the defendant, plus a statement from the employer verifying facts with regard to the employment. Mandatory suspensions required by Section 4507.16 Ohio Revised Code, shall not be modified for the mandatory period of such suspension

{6} the filing fee.

## RULE 43

### MODIFICATION OF SENTENCES

All requests for modification of sentences shall be directed to the probation office. It is the responsibility of the probation officer to investigate, evaluate, and report on such requests to the sentencing judge.

## RULE 44

### COLLECTION OF FINES

- A) In order that this Court may properly administer Sections 2947.14 and 2947.20 of the Ohio Revised Code, any person who claims inability to pay a fine shall furnish the Court with a written and signed statement setting forth information as to such person's assets and liabilities, including, but not limited to, current wages and employment and last employment, accounts in financial institutions, property owned, and debts, and shall set forth whether the fine could be paid by a certain date if time to pay were granted. The refusal to submit such statement, or the furnishing of a false statement, may be punished as a contempt of court.
- B) If a defendant provides proof that they are unable to pay their fines and wish to complete community service in lieu of payment of fines, the Court may allow defendant to work off fines at the current Ohio

minimum wage rate. Fines can be worked off for all or part of a fine but no court costs can be worked off.

#### RULE 45

Reserved.

#### RULE 46

### CASEFLOW MANAGEMENT IN CRIMINAL CASES

The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a system for criminal case management which will provide the fair and impartial administration of criminal cases.

- A) First Pre-trial: After arraignment, all incarcerable misdemeanors wherein the defendant is represented by a defense counsel shall be set for pre-trial by the Clerk or deputy Clerk within twenty (20) days except in those cases wherein the time allowed by R.C. 2945.71 is less than thirty (30) days. All other misdemeanors shall be set for trial unless the Law Director, his assistant, defense counsel or the judge orders a pre-trial in said case. The Court shall not take part in the first pre-trial hearing. The Law Director or his assistant shall contact the victim, witnesses, private complainants and/or law enforcement officers as necessary to obtain whatever information or authority he deems necessary to prepare for pre-trial or plea negotiations. Both counsel shall sign and the evidence of having said first pre-trial on a form prescribed by the Court and signed by counsel for the parties.

- B) Second Pre-trial: Following the holding of the first pre-trial, the parties shall hold a second pre-trial within twenty (20) days of the second pre-trial, or forty (40) days of arraignment. The Court may participate in the second pre-trial conference if requested by the parties. The defendant shall attend the second pre-trial. Upon the close of the second pre-trial conference, the Law Director or his assistant and the defense counsel shall jointly prepare a final pre-trial statement on a form provided by the Court. Said form shall be completed and filed with the Clerk of this Court on or before the date and time given in the second pre-trial conference.
- C) Conclusion of Pretrial conference: If the parties cannot resolve the case, then the case shall be set for trial unless a trial date has been established earlier by the clerk. The parties shall have his/her calendar available to set the trial date. The judge shall review the Pre-trial Report submitted by the Law Director or his assistant and defense counsel and issue appropriate orders.
- D) Failure to file a pre-trial report, failure to diligently prepare or complete pre-trial investigation or failure to attend any hearing wherein a personal appearance is indicated shall subject any attorney in such default without just cause being shown to citation for contempt of court. Alternatively, failure to prepare for the first pre-trial may be foundation for a finding of failure to prosecute and dismissal of the case may be ordered.



- E) Motions: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure.
- F) Trials: Each case not resolved at pre-trial shall be set for trial to Court if not already set at arraignment. If a jury demand is timely filed, then the case will be moved to the jury trial schedule, if not already set. Counsel for the parties shall notify the court by 12:00 pm of the seventh (7<sup>th</sup>) day preceding their trial of any change in plea, or jury demand status by a jury waiver in writing signed by the defendant or jury costs will be attached to their case. In the event that multiple jury trials are set on the same date, the case with the least amount of time remaining on speedy trial time pursuant to Section 2945.71 shall be given preference.

#### IV. JURY MANAGEMENT PLAN

##### RULE 47

##### INTRODUCTION

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18(C). It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Van Wert Municipal Court.

##### RULE 48

##### JURY ELIGIBILITY

To ensure that the jury pool is representative of the adult population of Van Wert County, Ohio, all persons are eligible to serve on jury, except as follows:

{1} Persons less than 18 years of age;

{2} Persons who are not residents of the jurisdiction of the Court. All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

## Rule 49

### Procedure for Jury Selection

- A) Potential jurors shall be drawn from a jury source list, which shall constitute a list of all registered voters in Van Wert County, by the use of random selection procedures using automated data processing equipment in conformity with ORC 2313.08 and ORC 2313.21. In October of each year, the Jury Commissioners, duly appointed by the Court pursuant to Revised Code 2313.01, shall convene and select jury panels to cover potential jury dates throughout the calendar year. The jury source list shall be reviewed and unsuitable names purged from such list. In accordance with the powers provided to jury commissioners by ORC 2313.01. In the event the jury panels drawn are insufficient to meet the needs for the court in the calendar year, the Jury Commissioners shall reconvene as necessary to select additional jury panels, in accordance with ORC 2313.01.
- B) If, in the opinion of the court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be

utilized as authorized by law. Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during voir dire. Departures from random selection shall be permitted only as follows:

{1} To exclude persons ineligible for service

{2} To excuse or defer prospective jurors.

{3} To remove prospective jurors for cause or if challenged peremptorily

{4} To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

C) All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned. Further, all prospective jurors shall be required to complete a jury questionnaire and, if appropriate, a request for excuse, exemption or a deferral. Said summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process, and shall be delivered by ordinary mail. Said summons shall clearly explain how and when the recipient must respond and the consequence of his failure to respond.

D) Any person who fails to respond to a duly served summons may be served with a citation for contempt of court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

## RULE 50

### SUMMONING OR PROSPECTIVE JURORS

- A) Prospective jurors shall be summoned only upon the filing of a written jury demand. In civil cases, a jury deposit of seven hundred fifty dollars (\$750.00) shall be assessed. In the event the deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the Court for a waiver of the jury deposit requirement. In criminal cases, no deposit shall be required.
- B) Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of thirty (30) persons per trial shall be summoned for service unless the Court determines that a lesser or greater number is necessary for a particular trial. Every effort shall be made to resolve cases prior to summoning juries. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial.
- C) Persons summoned for jury service shall receive compensation at the rate of twenty dollars (\$20.00) per day. Such fee shall be promptly paid from the City or County treasury, as appropriate. Any jury wishing his fee for service shall be permitted to do so in writing in the Clerk's office. All waived fees shall be returned to the City or County treasury, as appropriate. The term of service for any prospective panel shall be one or the completion of one trial, whichever is longer.

## RULE 51

### EXEMPTION, EXCUSE, AND DEFERRAL

A) All persons except those who exercise their right to exemption are subject to service. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excuse, exemption, or deferral must be made on the form provided, and shall be accompanied by appropriate documents. These documents shall be retained by the court. The following factor constitute a partial, although not exclusive, a list of excuses for while a person may be excused or deferred from any jury service:

{1} Any person who suffers from a substantial physiological or psychological impairment

{2} Any person who has a scheduled vacation or business trip during potential jury service

{3} Any person for whom jury service would constitute a substantial economic hardship

{4} Any person for whom service on a jury would constitute a substantial hardship on their family, clients, or members of the public affected by the prospective jurors occupation

{5} Any person who has served on a jury within the last year

{6} Any person for whom it may be readily determined is unfit for jury service

{7} Any person for whom it is readily apparent would be unable to perform their duty as a juror.

{8} Other valid excuse

B) No person shall be excused from jury service, except by the Judge. No person who does not complete the jury excuse deferral or exemption form shall be excused from service. Once a prospective juror has submitted his request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

## RULE 52

### EXAMINATION OF PROSPECTIVE JURORS

A) Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the jurors' fairness and impartiality. All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires. Jury questionnaires indicating

basic background information concerning panel members shall be made available to counsel one day prior to the day on which jury selection is to begin. Counsel is permitted to record or copy the information contained on the questionnaires except addresses and telephone numbers, so long as all copies of jury questionnaires are returned to the court upon the completion of trial. Under no circumstances may counsel or a party retain any jury questionnaire. Neither counsel nor party will be permitted to question prospective jurors as to matters contained in the questionnaire. Parties and counsel may be permitted to ask follow up questions concerning such information. The Court shall conduct a preliminary voir dire examination concerning basic and relevant matters, and counsel shall be permitted a reasonable period of time to question panel members thereafter. Counsel or parties shall conform their voir dire questioning to the following rules:

{1} Counsel may not examine prospective jurors concerning the law of possible instructions.

{2} Counsel may not ask jurors to base answers on hypothetical questions

{3} Counsel may not repeat questions previously asked to the prospective jurors by the court or counsel.

{4} Counsel may not argue the case while questioning jurors

{5} Counsel may not engage in efforts to indoctrinate jurors

{6} Counsel may not ask jurors what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.

{7} Questions are to be asked collectively of the panel whenever possible

{8} Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

B) In the event, that there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider these questions. In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment. If it is determined by the court during the voir dire process that the individual is unable or unwilling to sit in a particular case fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented, or upon motion of the Court. Further, Ohio Revised Code 2313.42 and Ohio Criminal Rule of Procedure 24(B) set for additional cause challenges which may be made against potential jurors.

C) Preemptory challenges shall be exercised alternatively as presently established by Revised Code 2945.23, and Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. All challenges shall be made in open court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to that number as established by the Rule of Civil and Criminal Procedure.



Challenges to the jury array shall be made in accordance with established rules of procedures. In criminal cases, the jury shall consist of eight regular jurors and one alternate juror at the option of the Court. In civil cases, the jury shall consist of eight regular jurors and one alternate juror at the option of the Court, unless by agreement, the parties stipulate to a lesser number. In special circumstances, the additional alternate jurors may be selected.

## RULE 53

### FEES FOR COMPUTER RESEARCH AND SERVICES

Pursuant to the authority of Ohio Revised Code 1907.261, it is determined for the efficient operation of the Civil Division of Van Wert Municipal Court, additional funds are required to obtain computerized legal research services.

The Clerk of Court is directed and hereby authorized to charge and collect an additional fee of twenty-five dollars (\$25.00) upon the filing of each cause or appeal under ORC 1907.261.

Pursuant to the authority of ORC 2907.261, it is determined for the efficient operation of the Civil Division of the Court, additional funds are required to computerize the office of the Clerk of Van Wert Municipal Court.

The Clerk of this Court is directed and hereby authorized to charge an additional fee of ten dollars (\$10.00) upon the filing of each cause of civil action or appeal and docketing and indexing of each aid in execution or petition to vacate, revive or modify a judgment under ORC 1907.2.

The Clerk of this Court is directed and hereby authorized to charge an additional ten dollars (\$10.00) on each traffic and criminal charge filed in the Van Wert Municipal Court. The Clerk is further directed and authorized to charge twenty-five dollars (\$25.00) on each wedding.

All funds collected pursuant to this rule shall be paid to the Van Wert City Treasurer to be disbursed, upon an order of the Municipal Court, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of Van Wert Municipal Court.

#### RULE 54

#### COURT COSTS AND FEES

All court costs incurred during the filing and pending activity of civil cases in Van Wert Municipal Court are the responsibility of the party filing the action. Court costs not covered by the deposit required at the time of filing will be billed to the plaintiff at the conclusion of the case. The total of all court costs may be added to the amount of the judgment rendered in the case and reimbursed to the filing party upon the collection of judgment monies.

#### CIVIL CASES

Effective August 1, 2011, the monetary jurisdiction of the Van Wert Municipal Court is fifteen thousand dollars (\$15,000.00). Filing fees will be as per attached civil deposit fee schedule. Any court fees that cannot be paid by the established deposit will be billed to the petitioner.

#### RULE 55

## PAYMENT OF FINES

In cases where a fine and costs are assessed, the payment will be made immediately after the conclusion of the case. All payments are to be made to the Clerk of Court of Van Wert Municipal Court. If a defendant is unable to pay fines and costs immediately to the Court, the following restrictions will be enforced.

- A) If the defendant is unable to pay the required fine and costs he/she may make an oral request for an extension of time for payment.
- B) If an extension to pay is granted, the defendant must sign a payment agreement at the Clerk's office. This statement lists the amount owed, the date of a payment and conditions for failure to pay by a date established.
- C) Payments upon a cause shall be applied first to court costs, second to probation fees, and third to fines and costs.

## RULE 56

RESERVED.

## RULE 57

## HOUSE ARREST PROGRAM

Upon application by a defendant or their attorney; and upon order of Court a prisoner may participate in a House Arrest Program. Said program for the Municipal Court shall be administered by the Van Wert Municipal Court Probation Department and the fees shall be set by the Van Wert Municipal Court. No House Arrest Program may be instituted except by specific order of this Court.

## RULE 58

### PROBATION DEPARTMENT

A Probation Department for the Van Wert Municipal Court shall be staffed by at least (1) full-time probation officer. Said department shall provide assistance to the Court by furnishing pre-sentence investigations, monitoring probationers during their term of probation, reporting to the Court violations of terms of probation and making recommendations to the Court concerning termination of probation after a probationer has successfully completed all terms of probation. The Probation Department shall perform other duties consistent with the effective administration of justice as deemed necessary by the Court.

A copy of the Rules of Probation are included in the appendix of these rules. Said office shall have the power to modify those conditions according to experience and circumstances of each probationer.

Pursuant to Ohio Revised Code 2951.021(B) (1) the Court will assess as part of the court costs a one-time supervision fee. This fee is set forth in an administrative order from the Judge. This money will be collected by the Clerk of Courts office and disbursed by Court as deemed necessary.

## RULE 59

### CRIME STOPPERS PROGRAM

The Board of County Commissioners does hereby authorize the Van Wert Municipal Court to impose the sum of one dollar (\$1.00) as costs in any criminal case for the Van Wert County Crime Stoppers.

This one dollar (\$1.00) additional court costs is in addition to any other court costs that the court is required by law to impose upon the offender, and the Court shall impose the one dollar (\$1.00) additional court costs to the offender.

The Clerk of each court shall transmit all monies collected during a month to Van Wert County Crime Stoppers.

## RULE 60

### REFUND OF OVERPAYMENTS

The court hereby determines for the efficient operation of the court any overpayment received for ten dollars (\$10.00) or less or less will be receipted as a Van Wert Municipal Court cost.

The Clerk of Court is not to issue any refund check in any division that amount to ten dollars (\$10.00) or less. Any overpayment of ten dollars (\$10.00) or less will be receipted as a Van Wert Municipal Court payment on that particular case and documented as an overage.

**VAN WERT MUNICIPAL COURT, VAN WERT, OHIO**

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RULES OF PRACTICE, PROCEDURE & ADMINISTRATION

ORDER OF ADOPTION

**IT IS HEREBY ORDERED** that the aforementioned rules be adopted for conducting the business and regulating the practice and procedures of this Court, effective January 1, 2022, until otherwise ordered.

All previous rules are hereby rescinded.

These rules and orders shall be entered by the Clerk in the Journal.

APPROVED:

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HON. JUDGE JILL WORTHINGTON