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NOV 18 2022

CLERK OF COURT
SUPREME COURT OF OHIO

IN THE MARIETTA MUNICIPAL COURT
WASHINGTON COUNTY, OHIO

FILED

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ADOPTION OF LOCAL RULES OF COURT

MUNICIPAL COURT
MARIETTA, OHIO

Marietta Municipal Court hereby adopts Local Rules of Court one through twenty-nine as the governing procedures of the Court. The Court finds that the adoption of such rules:

1. Are required to maintain the good order and operation of the Court;
2. Would be of substantial help to new attorneys or attorneys from outside of Washington County;
3. Would substantially clarify court procedures for the public and thus improve public confidence in the justice system at large;
4. Would necessarily codify and document court procedures previously practiced without written documentation; and
5. Serve to achieve the Court's goal of openness and transparency.

On the basis of those findings, the Court adopts said rules after appropriate public notice and an opportunity to comment on the proposed rules as permitted by Sup. R. 5(A)(2). IT IS ORDERED that these rules be filed with the Clerk of the Marietta Municipal Court and further that the Clerk is directed to file these rules with the Clerk of the Supreme Court and with the Supreme Court Commission on Technology and the Courts. IT IS FURTHER ORDERED that those rules be posted upon the website of Marietta Municipal Court.

IT IS SO ORDERED.

Effective September 15, 2022


Janet Dyar Welch, Judge

Marietta Municipal Court

259 Butler Street

Marietta, Ohio 45750

Phone 740-373-4474

Janet Dyar Welch, Judge

Anne E. Keegan, Magistrate

Emily Heddleston, Clerk of Court

Local Court Rules

**Proposed Adoption
Effective 09/15/22**

MARIETTA MUNICIPAL COURT – LOCAL COURT RULES

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ADMINISTRATIVE RULES

1.0 SCOPE AND EFFECTIVE DATE

These rules are adopted as Local Rules of Court governing practice and procedure in the Marietta Municipal Court. They are adopted pursuant to the Court's authority as set forth in the Ohio Rules of Civil and Criminal Procedure and the Rules of Superintendence. These rules may be cited as "MMC Rule ____." They are effective September 15, 2022 and shall govern all proceedings filed subsequent to that date. All prior rules are vacated.

2.0 COURT SESSIONS

The hours for court sessions and for the Municipal Clerk's Office are 8:00 a.m. until 4:00 p.m. Monday through Friday unless otherwise ordered by the Judge or a legal holiday. Arraignments shall be held on Monday, Wednesday and Friday at 9:00 a.m., unless a legal holiday. Arraignment or initial appearances for inmates of the Washington County Jail shall be held weekdays at 8:00 a.m., unless otherwise ordered by the Judge. Preliminary hearings shall be held on Wednesday at 1:00 p.m. unless otherwise ordered by the Judge.

3.0 MAGISTRATE AND ACTING JUDGES

The Magistrate shall be appointed by the presiding Judge and will have all the authority and power set forth in the Rules of Procedure and Statutes. The Magistrate will hear all matters referred by the Judge, and as permitted by law.

Acting Judges shall be appointed pursuant to R.C. 1901.10 and shall serve at all times when the incumbent Judge is temporarily absent or incapacitated.

Where an Acting Judge, duly designated by the Elected Judge of the Court, is serving in that capacity as of the close of business day, that designation and authority, including the authority to review affidavits and issue warrants, shall continue until the Elected Judge, or a different, duly designated Acting Judge, next takes the bench.

The foregoing shall not apply when:

- (a) The Acting Judge's designation pertains only to a particular case or controversy;
- (b) The Elected Judge has indicated a different arrangement at the time of designation.

4.0 MUNICIPAL COURT CLERK

- (a) The Clerk shall maintain such dockets, books of record and indices as are required by law as public records, utilizing electronic storage whenever possible.
- (b) The Clerk shall permit any person to request a copy of any papers filed, but original papers filed in any case shall not be removed from the office without prior authority of the Clerk.

5.0 PUBLIC RECORDS POLICY

As required by Sup. R. 44 through 47, the Court has established a Public Records Policy, appended here as Appendix A. The policy is available at the Clerk's office and on the Court's web page at www.mariettacourt.com.

6.0 PERSONAL IDENTIFYING INFORMATION MUST BE REDACTED

To protect legitimate personal privacy interests, social security numbers and other personal identifying information should be redacted from documents before the documents are filed with the Court. The responsibility for redacting personal identifying information rests solely with the parties and/or attorneys who present the documents for filing.

If personal identifying information is redacted or omitted from a documents, the information should be provided to the court on a Confidential Disclosure of Personal Identifiers form that indicates what information has been redacted or omitted. Appendix B is an example of a confidential disclosure form.

7.0 COURT COSTS/FILING FEES

- (a) Costs shall be determined from time to time by the presiding Judge as appended to these Rules or as hereafter amended by Administrative Order of the Court. The Schedule is available at the Clerk's Office and on the Court's web page at www.mariettacourt.com. Appendix C.
- (b) No advanced deposit will be required if the Court determines that the party qualifies as an indigent litigant as set forth in R.C. 2323.311.

8.0 FILINGS BY ELECTRONIC TRANSMISSION/FAX

- (a) **Electronic Mail.** Documents may be filed by electronic transmission only to the following addresses, **EFFECTIVE June 1, 2023:**
 - a. **Assignment Commissioner:** assignmentcommissioner@mariettaoh.net
 - b. **Traffic/Criminal Clerk:** trafficcriminal@mariettaoh.net
 - c. **Civil Clerk:** civil@mariettaoh.net

(b) **FAX.** Documents may be filed by FAX only to the following number 740-373-2547.

(c) Filings will be accepted by facsimile or electronic transmission by the Clerk as long as the filing does not require any filing fee to accompany it. Such filings shall be considered the original unless authenticity is challenged by a party or the Judge or Magistrate orders otherwise. The Clerk shall accept filings twenty-four (24) hours a day. If the Clerk receives an electronic or facsimile filing after 4:00 pm, the filing shall be deemed filed on the next business day on the date and time the clerk time stamps the document received. It remains the filing party's responsibility to serve all parties and to ensure that the Clerk received the communication. Filings will be accepted which include an electronic signature of a party and/or their counsel.

(d) It is the responsibility of the sender to confirm receipt of the filing.

8.01 Electronic Signatures & Use of Electronic Records

Local Rules 8.01-8.04 are established to allow the use of electronic signatures in the Court to address the authenticity of a signature and to address the use of electronic records. If it is established that a document was electronically signed in violation of these rules, then the party shall notify the court and the opposing party of any suspected violation. If the violation is substantiated, Judge or Magistrate shall order the clerk to strike the unauthorized document from the record.

8.02 Signature of Judge or Magistrate

Documents may be signed by the Judge or Magistrate with an electronic signature. All orders, decisions, entries, permits, judgments, and other documents signed in this manner shall have the same force and effect as if the Judge or Magistrate had affixed her signature in a conventional manner.

8.03 Signature of Court Personnel

Electronic signatures in case records will be limited to Court personnel. To ensure that the electronic signature is authentic, the signer must use a username and password to log into the court's secured network to access the document to be signed. No personnel shall share these passwords with others except for the Court IT Coordinator.

8.04 Signature of Attorney, Plaintiff, Defendant or Litigant

Documents may be signed electronically by an attorney, Plaintiff, Defendant, or other litigant while inside the court building using DocuSign or at the Washington County Jail with an electronic signature on a signature pad or other device. To ensure that the electronic signature is authentic, the signature must be created in the presence of court personnel. Then, the signer or the court personnel that witnessed the signature shall immediately submit the record to the appropriate electronic filing process.

8.05 Technology Plan

- (a) **Purpose.** The purpose of this rule is to promote uniformity in the procedures for telephone and video appearances in cases when permitted by these rules, court order, statute, or other rules of court. Notwithstanding any other provisions of this rule, the Judge or Magistrate may order a party's personal appearance for any court proceeding.
- (b) **Procedures.** The Court on its own motion, or upon the request of any party, may conduct court proceedings, when permitted by, and in accordance with, any applicable Rules and Law, in which the Court is an active participant via telephone or video conferencing with attorneys and unrepresented parties.
 - 1. The Court shall provide written instructions as to the use of the technology on its website (www.mariettacourt.com).
 - 2. All such proceedings involving telephone or video appearances shall be recorded when required and reported to the same extent as if the participants had appeared in person.
 - 3. The Court shall specify:
 - a. The time, method and person who will initiate the telephone or video conference; and
 - b. Any other requirements necessary to accomplish or facilitate the telephone or video conference.
 - 4. Upon convening a proceeding involving telephone or video appearance, the Court shall recite the date, time, case name, case number, names and locations of parties and counsel, and the type of hearing.
 - 5. If at any time during a court proceeding conducted by telephone or video conferencing the Court determines that an in-person proceeding is necessary, the Court may continue the matter and require the parties to attend in person.
- (c) **Confidential Attorney-Client Communication.** The Court's telephonic and/or video proceedings shall permit the parties to engage in confidential attorney-client communications as needed.
- (d) **Witnesses.** Parties who wish to provide witness testimony telephonically or by video conferencing shall submit a written request to the Court no less than five (5) days before the Court proceeding in which they intend to present the witness' testimony. For good cause shown the Court may modify the above time period.
- (e) **Technical Standards and Equipment.** The equipment and platform used in any hearing or proceeding conducted under this rule must conform to the following minimum requirements:

1. All participants must be able to see and/or hear and communicate with each other simultaneously.
2. All participants must be able to see, hear or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings, either by video, facsimile or other method.
3. The telephonic or audiovisual technology must generate a verbatim record of the proceeding.
4. The use of telephonic or audiovisual technology in conducting hearings and proceedings shall in no way abridge any right of the public.

8.06 Electronic Tickets in Lieu of an Ohio Uniform Traffic Citation

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Marietta Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If any 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. A ticket produced by computer or other electronic means does not require the signature of the defendant. A ticket produced by computer or other electronic means requires the officer to electronically affix the officer's signature thereto, which may include a cursive signature, officer's unit number or a typed name applied by computer or other electronic means.

9.0 SEALING OF RECORDS

Applications for Sealing of Court Criminal Records may be made on the form approved by the Court. The Clerk shall make the court form readily available upon request and the form is posted on the Court website www.mariettacourt.com.

10.0 RECORDING OF ALL PROCEEDINGS

- (a) Pursuant to Sup. R. 11 (A), the official method for recording court proceedings shall be by audio-electronic recording devices. If counsel or a party desires a court reporter, then the counsel or party must make their own arrangements for the presence and payment of a court reporter.
- (b) A person may request, in writing, a full or partial transcript of any court proceeding upon written motion. The court, once the designated fee is paid or waived by order of the judge or magistrate, will provide an electronic recording of the proceeding.
- (c) All audio recordings of proceedings shall be maintained in the custody of the clerk for a period of one year.

11.0 CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS

Local Rules 11.0 – 11.02 are established to act as rules for broadcast of court proceedings.

The Judge shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the Judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission of the broadcasting, televising, recording or taking of photographs in the courtroom shall be in writing and the written order of the Judge shall be made a part of the record of the proceedings.

11.01 Limitations

- (a) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the Judge.
- (b) The Judge shall inform victims and witnesses of their right to object to be filmed, videotaped, recorded or photographed.
- (c) This rule shall not be construed to grant media representatives any greater rights than permitted by law.
- (d) 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.

11.02 Revocation of Permission

Upon the failure of any media representative to comply with the conditions prescribed by this rule or the Judge, the Judge may revoke the permission to broadcast or photograph the trial or hearing.

12.0 JURY INSTRUCTIONS

Proposed jury instructions shall be filed in the Clerk's Office on all jury cases, seven (7) days prior to trial. Any special instructions shall include the text of the proposed instruction and citations of authority for any instruction requested by counsel.

13.0 JURY VIEW

A request for a view by the trial jury shall be made at least fourteen (14) days prior to trial.

14.0 INDIGENT DEFENDANTS QUALIFICATIONS FOR APPOINTMENT AS COUNSEL

- (a) Before counsel is appointed, a defendant must file a completed affidavit of indigency with the Washington County Public Defender Office. The sole

responsibility for determining the eligibility of a defendant for court-assigned counsel rests with the Washington County Public Defender Office. Eligibility will be determined according to the Ohio Public Defender Commission's standards.

- (b) Attorneys who wish to be appointed to represent indigent defendants must complete an Application for Appointment as Assigned Counsel and must meet the following criteria:
1. Licensed to practice law in Ohio;
 2. Good standing with the Supreme Court of Ohio;
 3. In order to be appointed to represent indigent clients in misdemeanor cases, to represent indigent clients in initial felony proceedings in municipal court and to represent indigent clients in appellate cases, or post-conviction/community control proceedings, an attorney must satisfy training, education and experience requirements set forth in OAC 120-1-10;
 4. Maintains professional liability insurance as required by the Ohio Rules of Professional Conduct;
 5. Membership in the Washington County Bar Association is not required.
- (c) Appointments will be made from the list of attorneys approved by the court and on file with the Clerk. Appointments will be distributed as widely as possible among attorneys on a rotary system designed to pair the defendant's level of offense with an attorney who meets the qualifications for assignment as established by the Ohio Public Defender Commission's standards. The Court may appoint an attorney who is not next in sequence if an attorney who is next in sequence does not respond to the inquiry from the Court within a reasonable time, is unavailable to represent the defendant, has a conflict, or the interests of justice require the appointment of a specific attorney instead of the next available attorney. If the Court passes over the name of an attorney for any reason, the Court will return to that attorney for the next appointment to the extent administratively feasible. If the attorney continues to not respond to inquiries from the Court or if the attorney refuses a second time to represent a defendant due to unavailability, the Clerk will not return to the attorney until the next rotation.
- (d) Immediately upon selection of an attorney, the Judge will file the appropriate entry appointing the attorney, unless the Judge decides that the attorney is not suitable for that particular defendant or that case.
- (e) Upon appointment, the attorney should perform all duties as warranted by the facts of the case and must act in a professional manner.

- (f) The attorney must personally represent the defendant and must not, absent just cause, allow substitute counsel to represent the defendant.
- (g) The attorney must have a working phone with an administrative assistant or voicemail in order to respond timely to calls from the Court or the defendant. The attorney must also have a mailbox at the municipal court and is responsible for checking the mailbox on a regular basis so as to remain informed of scheduling entries and other case-related communication unless an alternative or electronic form of communication has been established and approved by the Court.
- (h) A court-appointed attorney who seeks to withdraw from representing a defendant must act in a manner consistent with the Ohio Rules of Professional Conduct.
- (i) The Judge will annually review the list of attorneys approved for court assignments to ensure that the attorneys on the list remain qualified to represent defendants and that the work of those attorneys continues to meet the ethical standards set by the Ohio Rules of Professional Conduct. The Judge will also periodically review the appointments to ensure an equitable distribution of appointments. Sup. R. 8 (F), persons pre-qualified to serve are not assured a substantially equal number of appointments. No person is granted a legal right or claim by virtue of the rule. The County Public Defender shall serve as an independent voice to the Judge during the periodic review.
- (j) An attorney may be removed from the list of court-appointment assignments for good cause, including but not limited to the following reasons:
 1. Failure to maintain licensure to practice law in the State of Ohio and to remain in good standing with the Supreme Court of Ohio.
 2. Failure to meet the criteria established in these Rules.
 3. Routine failure to respond timely to the Judge's staff attempts to assign cases or repeated refusal to accept assignment of cases without a valid reason, such as a conflict of interest.
 4. Routine failure to respond to attempts by the Judge's staff to schedule hearings.
 5. Routine failure to attend scheduled court hearings or to arrive timely.
 6. Routine failure to adequately prepare for court hearings.
 7. Routine failure to maintain appropriate contact with clients.

8. Routine failure to timely submit the Motion, Entry, and Certification for Court-Appointed Counsel Fees.

(k) In making the appointments, the Court will comply with Sup. R. 8.

(l) Appointed counsel reimbursement

1. Reimbursement for representation in trial level cases will be made based on the maximum rate of \$75.00 per hour for both in court and out-of-court services.

2. The maximum fees permitted in trial level proceedings:

M1 – 4	\$2000
Misdemeanor OVI	\$2500
Contempt of Court	\$ 500
Probation/Community Control Violation	\$ 750
Preliminary Hearings	\$ 300

3. Appellate level proceedings:

Misdemeanor Trial	\$2000
Misdemeanor Plea	\$1000

4. Extraordinary Fees may be granted on application for good cause shown.

(m) Expense reimbursement - travel time and expenses

1. The attorney must itemize all travel expenses.

2. Attorney fees for time spent in-transit are not reimbursable. Mileage and parking expense is reimbursable only when the attorney travels from the attorney's office located outside of Washington County. Reimbursement will not be made for attorney fees and/or expenses incurred between the attorney's home and office, the attorney's home and a court in the same county, or the attorney's office and a court in the same county.

(n) Submission of fee and expense application.

Requests for compensation must be made by each appointed attorney on forms supplied by the Ohio Public Defender Commission. Attorneys should submit bills no later than 45 days after the last court date. An attorney may be denied payment for failure to meet the time deadlines or comply with other payment requirements.

(o) Applicants for certification as court appointed counsel may be filed at any time.

- (p) Appointed Counsel Application is appended as Appendix D.

15.0 WEAPONS IN THE COURT BUILDING

No person shall convey, attempt to convey, or possess a deadly weapon or dangerous ordnance in the court building except court security officers, bailiffs, probation officers and law enforcement officers appearing in their official capacities.

16.0 PROPER ATTIRE

Proper attire shall be worn in the courtroom. No hats shall be worn unless they are worn for religious purposes. No attire with offensive language or images will be permitted. No food or drink shall be allowed in the courtroom.

17.0 WIRELESS COMMUNICATION DEVICES

In order to protect the safety of those conducting business in the Marietta Municipal Court as well as to preserve the integrity of the judicial process.

- (a) Unless otherwise permitted by the Court, the operation of any cellular or portable telephone, camera (still or video), pager, beeper, computer, radio, or other sound or image recording or transmission device is prohibited in any courtroom or hearing room, jury room, judge's chambers, or ancillary area (to be determined in the sole discretion of the Court) without the express permission of the Court. All such devices must be turned off in the above listed areas at all times.
- (b) Duly licensed attorneys and their employees appearing in court, public safety officers, court staff and any others authorized by the Court are exempt from the prohibition above unless otherwise ordered by the Court.
- (c) Any person or persons violating this Rule may be subject to sanctions for contempt and may be ejected from the courthouse, and any item or device operated in violation of this Rule may be confiscated by court staff or security personnel and held until the offending person(s) leave(s) the courthouse. In no event shall the Court or any court or security personnel be liable for damage to any device confiscated and/or held in accordance with this Rule.

CRIMINAL/TRAFFIC DIVISION

18.0 DUTIES OF COUNSEL

- (a) **Designation of Trial Counsel.** Attorneys may enter as counsel of record by filing a Notice of Appearance which shall include the name, Ohio Supreme Court registration number, office mailing address, attorney's telephone number and electronic mail address.
- (b) **Withdrawal of Counsel.** Counsel shall be allowed to withdraw from trial counsel responsibility only with the written consent of the assigned

Judge/Magistrate. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, certificate of service on opposing counsel and client and time and date of trial, if set. Withdrawal of counsel will not be approved if application is made less than 7 days before trial except for circumstances which by reasonable diligence could not be determined seven or more days prior to trial.

- (c) **Written “Not Guilty” Pleas.** “Not Guilty” pleas may be entered in writing prior to the date of arraignment in compliance with the requirements of Crim. R. 10. If the written plea is approved by the Judge/Magistrate, neither counsel nor Defendant are required to appear at the scheduled arraignment.
- (d) **Continuances.** Every request for a continuance shall be by 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 requested 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 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.

- (e) **Motions Practice.** All motions, except those normally made at the trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Criminal Procedures and/or Ohio Traffic Rules. Motions are to be supported by Memoranda of Law containing applicable statutory and case law citations. No motion will be set for hearing unless provided by existing rule or the following statement appears prominently upon the first page of the motion: “Counsel Requests an Oral Hearing of Approximately _____ Minutes.”

A date and time for oral hearings on motions must be obtained from the Assignment Commissioner. Parties wishing to respond in writing to such motions shall do so not later than the fourteenth date following service of the motion or three (3) days prior to the scheduled oral hearing date.

All motions where an oral hearing is not required or requested, shall be accompanied by a proposed entry.

19.0 VIOLATIONS BUREAU

A Traffic Violations Bureau is hereby established in accordance with Ohio Traffic Rule 13, with authority to process and dispose of those traffic offenses for which no court appearance is required. In accordance with the Ohio Rules of Criminal Procedure Rule 4.1, there is hereby established a Minor Misdemeanor Violations Bureau, with authority to process and dispose of minor misdemeanors for which no court appearance is required.

A schedule of fines and costs shall be prominently displayed in the clerk's office and shall be attached to these rules.

20.0 BOND & PRE-TRIAL RELEASE SCHEDULE

As required by Crim. R. 46(G), the Court has established a bail bond schedule for certain criminal and traffic offenses. The schedule is available at the Clerk's office and on the Court's web page at www.mariettacourt.com. Appendix E sets forth the schedule and is subject to modification by Administrative Order of the Presiding Judge.

21.0 CRIMINAL/TRAFFIC DIVISION CASE MANAGEMENT

- (a) **Purpose.** The purpose of this rule is to establish, pursuant to Sup. R. 35, a system for criminal/traffic case management which will provide the fair and impartial administration of criminal/traffic cases. These rules shall be construed and applied to eliminate unnecessary delay.
- (b) **Clerical Steps:**
 - (1) The clerk shall promptly process all complaints filed. All cases filed will be tracked by event in accordance with the Supreme Court reporting requirements utilizing the worksheet provided by the Ohio Supreme Court.
 - (2) Upon the filing of a not guilty plea whether written or oral, the clerk shall immediately forward the case to the Assignment Commissioner for scheduling.
 - (3) Upon the filing of a motion, the clerk shall immediately forward the motion and case file to the office of the Judge or Magistrate for review.
- (c) **Judicial Steps:**
 - (1) **Motions.** All motions not heard or decided prior to trial will be disposed of at trial.
 - (2) **Court Trials.** In all cases where a jury has not been demanded a court trial shall be scheduled by the Assignment Commissioner to be heard within the period set forth by law unless a waiver of speedy trial is filed by the Defendant.
 - (3) **Pretrials/Jury Trials.** In all cases where a jury demand has been filed, a pretrial shall be scheduled, who are to notify the court in writing of the outcome of the pretrial.

CIVIL DIVISION

22.0 DUTIES OF COUNSEL

- (a) **Designation of Trial Counsel.** Attorneys will designate their capacity as trial counsel on all documents in civil cases and by written notice which shall include name of attorney, office address, zip code, telephone number, and email address.

- (b) **Withdrawal of Counsel.** Counsel shall be allowed to withdraw from trial counsel responsibility with the consent of the assigned Judge or Magistrate. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, certificate of service on opposing counsel and/or client and time and date of trial, if set. Withdrawal of counsel will not be approved if application is made less than seven (7) days before trial except for circumstances which by reasonable diligence could not be determined seven or more days prior to trial.
- (c) **Continuances.** Every request for a continuance shall be by written motion and will only be granted upon showing of good cause. All requests shall be served on opposing counsel or party. The motion shall set forth the date from which a continuance is requested, reasons for the continuance and certificate of service on opposing counsel and/or client. 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.

- (d) **Motions Practice.** All motions, except those normally made at the trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Civil Procedures. Motions are to be supported by Memoranda of Law containing applicable statutory and case law citations.

No motion will be set for hearing unless provided by existing rule or the following statement appears prominently upon the first page of the motion: "Counsel Requests an Oral Hearing of Approximately _____ Minutes at Which Time _____ Witness will be Called."

Parties wishing to respond in writing to such motions shall do so not later than the fourteenth day following service of the motion or three (3) days prior to the scheduled oral hearing date.

All motions where an oral hearing is not required or requested, shall be accompanied by a proposed entry.

- (e) **Pretrial procedure.** No case, except special civil proceedings defined in MMC Rule 29, shall be called for trial unless a pre-trial conference had been held. It shall be the duty of counsel to do the following at civil pretrial hearings:

- (1) **Appearance.** The counsel who will be trial counsel and who is authorized to act and negotiate on behalf of the party must be present. Telephone or video conferences may be arranged with approval of the Judge or Magistrate. In any civil action, a pretrial conference may be had

upon motion of either party if it is filed at least two (2) weeks prior to the date of trial or upon the Court's own motion. Counsel and parties shall attend the pretrial conference. Counsel must have complete authority to stipulate on items of evidence and must have full settlement authority.

- (2) Counsel who fails to attend a scheduled status or pretrial conference, without just cause, may be punished for contempt of this Court. Any Judge or Magistrate presiding at the pretrial or status conference shall have the authority to dismiss the action for want of prosecution upon failure of plaintiff, and/or his counsel to appear in person or remotely.
- (3) Unless waived or modified by the Judge or Magistrate, at least seven days before the pretrial conference, the parties shall file a pretrial statement which shall include the following:
 - (a) A brief statement of the facts of the case.
 - (b) A statement of the issues of law involved.
 - (c) Authorities relied upon to support the issues.
 - (d) An outline of the exhibits.
 - (e) The names and addresses of all expert witnesses.
 - (f) The names and addresses of all lay witnesses.
 - (g) An itemization of special damages.
 - (h) An estimation of anticipated time required for trial.
 - (i) A statement as to whether or not there will be a request for a view of the scene.
 - (j) Copies of any special instructions requested by the attorney.
 - (k) Any request for stipulations.
 - (l) Any indications of settlement.

(f) **Scheduling Order** – Scheduling Orders will be issued in accordance with CR 16.

(g) **Jury Trial.** Requests for trial by jury shall be made in accordance with Civil Rule 38. In regard to restitution hearings in forcible entry and detainer actions, requests for trial by jury shall be filed at least two (2) business days prior to the scheduled hearing.

The party making a demand for jury shall at the time of the filing of the demand deposit with the Clerk the sum required by the fee schedule, or as set by the Court, unless an affidavit of indigency affidavit approved by the Court is filed in lieu of the monetary deposit.

Proposed jury instructions shall be submitted to the Court seven (7) days prior to the scheduled jury trial or as otherwise ordered by the Court.

The failure of a party demanding a jury to comply with any of the provisions of this Rule shall constitute a waiver of jury by that party and the matter may be submitted to and decided by the Court.

(h) **Appeal Bond and Deposit**

An appellant shall deposit as security, in addition to the appeal bond, a deposit of \$250.00 for a trial to the court and all other hearings, and a \$500.00 deposit for a jury trial, or such additional sum of money sufficient to include all costs, before the transcript of the docket and journal entries will be prepared. All costs and deposits shall be delivered to and disbursed by the Clerk. No advance security deposit will be required if the Court determines that the party qualifies as an indigent litigant as set forth in R.C. 2323.331.

23.0 DISMISSALS FOR FAILURE TO PROSECUTE

All cases not reduced to judgment, which have remained on the docket for six (6) months or three (3) months in Small Claims Cases without the filing of any motion, affidavit, pleading or entry shall be dismissed by the Court, at plaintiff's cost, without prejudice to a new action. This shall be done after a notice pursuant to the Rules of Civil Procedure and the Rules of Superintendence has been issued. An entry shall be filed in each case in which such action is taken.

24.0 DEFAULT JUDGMENT

All Motions for Default Judgment shall be in writing and clearly state the date the complaint was filed, how service was made, proof of service and answer date. All Motions for Default Judgment shall also contain a list of claimed damages supported by documentary or other evidence. A proposed entry shall accompany the motion.

25.0 MEDIATION – Reserved

CASE MANAGEMENT IN CIVIL CASES

26.0 PURPOSE OF RULES

The purpose of these rules is to establish pursuant to Sup. R. 5(B) a system for civil case management which will achieve the prompt and fair disposal of civil cases.

26.01 Scheduling of Events

The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in three (3) clerical steps and five (5) judicial steps.

26.02 Clerical Steps

- (a) **Summons:** Summons shall be served in accordance with the Ohio Civil Rules of Procedure. In the event there is a failure of service, the Clerk shall immediately notify counsel or the party, if pro se. If the party fails to obtain service of summons within six (6) months from the date the complaint was filed or three (3) months if a Small Claims Complaint, then the Court shall notify counsel that the case will be dismissed for lack of progress in thirty (30) days unless good cause is shown to the contrary.
- (b) **Responsive pleading:** After any responsive pleading or motion is filed, the Clerk shall immediately forward the pleading and file to the Judge or the Magistrate so that the matter may be set accordingly.
- (c) **Settlement:** When a file has been marked as settled and the entry has not been received within fourteen (14) days of said notice, then the Court shall notify the party that the case will be dismissed unless the entry is received within an additional fourteen (14) days from the date of the notice. Failure to respond and file the appropriate paperwork will result in the case being dismissed without prejudice at plaintiff's costs.

26.03 Judicial Steps - Reserved

CASE MANAGEMENT IN SPECIAL CIVIL PROCEEDINGS

27.0 PURPOSE

The following civil matters are considered special proceedings and may be heard by a Judge or Magistrate: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, BMV hearings, garnishment hearings, debtor's exams and dog designation hearings.

27.01 Scheduling of Events

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.

27.02 Pretrial Conference, Case Management and Status Conference Procedure

In any civil action, a pretrial conference may be had upon motion of either party if it is filed at least two (2) weeks prior to the date of trial or upon the Court's own motion. Counsel and parties shall attend the pretrial conference. Counsel must have complete authority to stipulate on items of evidence and must have full settlement authority.

Counsel who fails to attend a scheduled status, case management or pretrial conference, without just cause, may be punished for contempt of this Court. Any Judge or Magistrate presiding at the pretrial or status conference shall have the authority to dismiss the action for want of prosecution upon failure of plaintiff, and/or his counsel to appear in person.

Unless waived or modified by the Judge or Magistrate, at least seven days before the pretrial conference, the parties shall file a pretrial statement which shall include the following:

- (a) A brief statement of the facts of the case.
- (b) A statement of the issues of law involved.
- (c) Authorities relied upon to support the issues.
- (d) An outline of the exhibits.
- (e) The names and addresses of all expert witnesses.
- (f) The names and addresses of all lay witnesses.
- (g) An itemization of special damages.
- (h) An estimation of anticipated time required for trial.
- (i) A statement as to whether or not there will be a request for a view of the scene.
- (j) Copies of any special instructions requested by the attorney.
- (k) Any request for stipulations.
- (l) Any indications of settlement.

27.03 Forcible Entry and Detainer Actions

- (a) **Appearance.** Plaintiff's failure to appear will result in the case being dismissed without prejudice.
- (b) **Writ of Restitution.** When a writ of restitution is granted, the bailiff will schedule the set-out within 10 days, as required by law. No plaintiff may begin removing the defendant's property until the bailiff arrives to execute the writ of restitution. The plaintiff is responsible for providing any necessary labor to remove the defendant's property, and lock change at the plaintiff's expense. Whenever a writ is filed in a forcible entry and detainer action, the attorney or the

party who requests the writ shall provide the Clerk with the filing fee pursuant to the fee schedule.

- (c) A complaint in Forcible Entry and Detainer shall contain a reason for the eviction, a copy of the notice given under RC 1923.04 and a copy of the written instrument upon which the claim is founded (if any).
- (d) Pursuant to RC 4705.01 and *Cleveland Bar Assn. vs Picklo*, (2002) 96 Ohio St. 3d 195, 2002-Ohio-3995, only a licensed attorney may sign a complaint on behalf of another person. No property manager or real estate agent may sign a complaint or represent an owner in court, unless that property manager or real estate agent is also an attorney. When the plaintiff/owner is a corporation or limited liability company, the complaint must be signed by a licensed attorney. Any complaint signed by someone other than the owner or a licensed attorney will be dismissed without a hearing. Marietta Municipal Court Local Rules Page _____
- (c) If the plaintiff fails to appear for the eviction hearing, the case will be dismissed without prejudice.
- (d) When a writ of restitution is granted, the bailiff will schedule the set-out within 10 days, as required by law. No plaintiff may begin removing the defendant's property until the bailiff arrives to execute the writ of restitution. The plaintiff is responsible for providing any necessary labor and maintenance to change the locks and remove the defendant's property at the plaintiff's expense

27.04 Small Claims Division

A small claims action is commenced by filing a small claims petition. The standard Small Claims petition is available at the Clerk's Office. A Defendant is not required to file an answer or statement of defense. However, if the defendant fails to appear for the hearing, after being properly served, a judgment may be entered against the Defendant. All pleadings will be construed to accomplish substantial justice. Counterclaims or cross claims must be filed and served at least seven (7) days prior to the hearing.

The Small Claims Booklet found on the Court website provides a detailed explanation of a Small Claims case, including matters such as required copies, witnesses and procedure in court.

A small claims case may be transferred to the regular docket upon filing of motion and affidavit, as required by Ohio Revised section 1925.10, and upon payment of the required costs. No transfer will be granted until the filing costs are paid. No advance deposit will

be required if the Court determines that the party qualifies as an indigent litigant as set forth in R.C. 2323.311.

- (a) **Hearing:** The hearing in small claims court shall be conducted by the Judge or Magistrate. The plaintiff and defendant may subpoena and call witnesses if they desire to do so.
- (b) **Objections:** Any objection to the Magistrate's decision or order shall be made pursuant to Civil Rule 53. The opposing party shall have ten (10) days from the date the objection is filed to respond unless otherwise ordered by the Court. No oral hearing will be granted unless ordered by the Court.

27.05 Rent Escrow

If the landlord does not request a hearing within two (2) months from the date of the filing of an escrow petition, the Clerk shall set the matter for a hearing at the expiration of the two (2) months.

27.06 Aid of Execution

When filing any execution, the party shall provide one copy for each party to be served and one copy for the Clerk. Orders in aid of execution shall be served and scheduled in the same manner as appearance cases. In the event the Plaintiff or his attorney fails to appear for the examination of the debtor, the presence of the party shall be noted on the docket and the party excuse.

27.07 Sales and Confirmation

A copy of the notice of the sale of personal property shall be served by the Bailiff to the parties and to attorneys of record in the case. However, failure to serve such notice shall not invalidate the sale. It is the responsibility of the party demanding the sale to cause advertisement of such in a newspaper of general circulation and pay the costs for same. Proof of publication shall be filed with the Clerk. Entries of confirmation and distribution shall be prepared by the party who requested the sale and shall contain a statement that the sale was regular and proper in every respect unless otherwise directed by the Court and also a statement of the balance, if any, still due on the judgment.

27.08 Trusteeships

- (a) **Application:** The application for an appointment of a trustee shall include a complete and accurate statement, under oath, of: the debtor's name and address; name and address of all employers; and a list indicating the names, addresses, account numbers, and amount owing to all creditors. Attached to the application should be a copy of the demand of garnishment of personal earnings and proof of last thirty (30) days of gross earnings.

The attorney for the debtor or the debtor shall provide the Clerk with an additional copy of the application for each creditor listed in the application. The Clerk shall set the matter for a hearing. The Clerk shall send, by certified mail, a copy of the application and a hearing notice to each listed creditor.

Each notice shall contain the time and place of a hearing that objections to the application shall be heard. Additional creditors may be listed in the trusteeship only upon application and service of a notice to each additional creditor.

- (b) **Distribution:** The trustee shall distribute funds only to a creditor or the creditor's attorney who has verified the debt and amount owed. The Clerk shall supervise

cash payments of the debtor and distribute funds on a quarterly basis. The Clerk may refuse to accept payment from the debtor if it not the amount required by law.

- (c) **Dismissal:** If payments are not made when due, the trusteeship shall be dismissed and the money distributed. A dismissal shall make the debtor ineligible for filing a new application for a period of six (6) months.

27.09 Requests for Driving Privileges – Appeals of 12 point Suspensions

All requests for driving privileges and appeals of 12 point suspensions shall contain the following information: Petitioner’s date of birth, last 4 digits of the petitioner’s Social Security number, and Driver’s License number. All requests shall be set for a pretrial conference. Petitioner’s failure to appear could result in denial of the request or appeal.

JURY MANAGEMENT

28.0 JURY COMMISSION

Jurors shall be chosen by the Jury Commissioner as provided for in R.C. Chapter 2313. The Judge shall journalize the number of jurors requested for Municipal Court duty for each jury year.

Jurors who have served on a jury for this Court will not be required to serve as a juror again within one (1) years of the date of their jury service.

28.01 Eligibility for Jury Service

All persons in the Marietta Municipal Court’s jurisdiction shall be eligible for jury service except an individual who is:

- (a) Less than 18 years of age;
- (b) Not a resident of the jurisdiction;
- (c) A convicted felon who has not had his civil rights restored;
- (d) Serious illness or death within family;
- (e) Cloistered member of a religious organization or Amish;
- (f) Service would cause undue or extreme physical or financial hardship;
- (g) Over age 70 and requests to be excused.

28.02 Removal from the Jury Panel for Cause

If the Court determines during the voir dire process that any individual is unable or unwilling to hear the case fairly and impartially, that individual shall be removed from the panel for cause. Such a determination may be made on motion of counsel or by the Court.

28.03 Preemptory Challenges

The number of preemptory challenges shall not exceed three per side. Each side will be allowed an additional preemptory challenge if an alternate juror is seated.

28.04 Juror Compensation

Persons called for jury service will receive a fee for their service as established by the administrative order of the Judge pursuant to R.C. 1901.25.

28.05 Jury Size, Unanimity of Verdict and Deliberations

Jury size and unanimity in Civil and Criminal cases shall conform to existing Ohio law. A jury should not be required to deliberate after a reasonable hour unless the Court determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

SPECIALIZED DOCKET

29.0 THE MENTAL HEALTH DOCKET – “WTIC” COURT (WELLNESS, TREATMENT AND INTERVENTION COURT)

- (a) **Establishment of Mental Health Docket.** The Court established a mental health specialized docket known as the Wellness, Treatment and Intervention Court (WTIC) Docket effective July, 2021 which is governed under Superintendence Rule 36.20 for Specialized Dockets. It is the goal of the WTIC to reduce recidivism among individuals with behavioral and/or mental health issues in the criminal justice system; to reduce periods of incarceration for individuals with severe behavioral and/or mental health issues; and to successfully graduate participants from the WTIC.
- (b) **Placement in the WTIC Docket.** In order to have a criminal case placed on the WTIC Docket, a Defendant must make an Application for Admission. To qualify for admission, a Defendant must meet the following legal criteria: be a resident of Washington County; be charged with a misdemeanor of the third, second, and/or first degree or a combination of misdemeanors of the fourth degree which carry a potential jail sentence of sixty (60) days; have a severe and persistent mental illness and a moderate to very high risk of criminal recidivism; would benefit from court monitored treatment; and voluntarily enter the WTIC Docket.

Application for placement in the WTIC Docket shall be subject to initial assessment by the Program Director according to the criteria adopted by the Court. Persons charged with OVI, sex crimes (excluding public indecency), offenses of violence unless there is victim consent, and minor misdemeanors are ineligible for the WTIC. The WTIC is not an option if other charges are pending in any court. Upon finding that the Defendant satisfies the legal eligibility

criteria, Defendant is referred for diagnostic evaluation to confirm satisfaction of clinical criteria. Clinical criteria include: an “Axis One” diagnosis that is consistent with a severe and persistent mental illness; sufficient stability to understand and comply with program requirements; and the Defendant must not pose an unacceptable risk to program staff, family or community. The Treatment Team, subject to approval by the Judge, will determine if the defendant qualifies for the WTIC Docket.

- (c) **Case Assignment.** Upon Admission into the WTIC, the case is transferred to the WTIC Docket. The Defendant must have entered a guilty plea, except in diversions or Probation Violations, and be sentenced in order to be accepted into the WTIC Docket. Sentence will be suspended subject to terms of probation that will include the WTIC treatment plan. The Judge and the Probation Department shall have the primary responsibility for case management. In the event the Defendant is unsuccessfully terminated from WTIC for any reason, the case shall be returned to the regular docket.

The defendant must have entered a guilty plea, admitted to a Probation Violation, or entered into a Post Plea Diversion Agreement, in order to be accepted into the WTIC Docket. All sentences, sanctions, or Diversion Agreements shall include the WTIC treatment plan.

- (d) **WTIC Docket Case Management.** Defendants accepted into the WTIC will participate in counseling for mental health (individual and/or group sessions) and for substance abuse. The treatment plan may also include evidence based practices to address other criminogenic needs such as ACT (Assertive Community Treatment), housing, transportation, completion of education, vocational assessment, career training, and employment, Thinking for Change programs, medication monitoring, life skills and prosocial activities.

A Peer Recovery Support Specialist may be available throughout the participant’s time in WTIC. The Program Description, Participant Handbook, and Participation Agreement, as amended from time to time, are incorporated by reference.

- (e) **Termination from WTIC.** Upon successful completion of the Treatment Plan, the Defendant is graduated from the WTIC and will continue on community control for the balance of the period of supervision. If the Defendant unsuccessfully completes the WTIC, a Motion for Probation Violation may be filed. In the event the Court finds the probation terms have been violated, the remaining sentence will be imposed. A criminal defendant may also be neutrally discharged if they are no longer capable of completing the WTIC.

Appendices

Public Records Policy
Appendix A

Confidential Disclosure of Personal Identifiers
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Misdemeanor Bond Schedule
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**PUBLIC RECORDS POLICY
MARIETTA MUNICIPAL COURT
WASHINGTON COUNTY, OHIO**

EXHIBIT A

MISSION STATEMENT

Transparency leads to a citizenry that is better informed about the operations of government, which contributes to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of Marietta Municipal Court to, at all times, comply with and abide by the spirit and the letter of Ohio's Public Records Act and the rules for public access set forth in the Rules of Superintendence for the Courts of Ohio released by the Ohio Supreme Court.

DEFINING PUBLIC RECORDS

All court records kept by Marietta Municipal Court are presumed to be public unless they are exempt under Ohio law or the Rules of Superintendence for the Courts of Ohio. All court records must be organized and maintained in such a way that they can be made available for inspection and copying.

“Actual cost” means the cost of depleted supplies; records storage media costs; actual mailing and alternative delivery costs, or other transmitting costs; and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

A “court record” means both a case document and an administrative document, regardless of physical form or characteristic, manner of creation, or method of storage.

“Case documents” means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding including exhibits, pleadings, motions, orders, and judgments, and any documentation prepared by the court or clerk in the judicial action or proceeding, such as journals, dockets, and indices, subject to the exclusions in division (C)(2) of this rule.

The term “case document” does not include the following:

A document or information in a document exempt from disclosure under state, federal or common law;

Personal identifiers, as defined in division (H) of Sup. R. 44;

A document or information in a document to which public access has been restricted pursuant to division (E) of Sup. R. 45;

Except as relevant to the juvenile's prosecution later as an adult, a juvenile's previous disposition in abuse, neglect, and dependency cases, juvenile civil commitment files, post-adjudicatory residential treatment facility reports, and post-adjudicatory releases of a juvenile's social history;

Notes, drafts, recommendations, advice and research of judicial officers and court staff;

Forms containing personal identifiers, as defined in division (H) of Sup. R. 44, submitted or filed pursuant to division (D)(2) of Sup. R. 45;

Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access;

“Case file” means the compendium of case documents in a judicial action or proceeding.

“File” means to deposit a document with a clerk of court, upon the occurrence of which the clerk time or date stamps and docket the document.

“Submit” means to deliver a document to the custody of a court for consideration by the court.

“Administrative documents” means a document and information in a document created, received, or maintained by a court that serves to record the administrative, fiscal, personnel, or management functions, policies, decisions, procedures, operations, organization, or other activities of the court, subject to the exclusions in division (G)(2) of this rule.

The term “administrative document” does not include the following:

A document or information in a document exempt from disclosure under state, federal, or the common law, or as set forth in the Rules for the Government of the Bar;

Personal identifiers, as defined in division (H) of Sup. R. 44;

A document or information in a document describing the type or level of security in a court facility, including a court security plan and a court security review conducted by a local court, the local court's designee, or the Supreme Court;

An administrative or technical security record-keeping document or information;

Test questions, scoring keys and licensing, certification, or court employment examination documents before the examination is administered or if the same examination is to be administered again;

Computer programs, computer codes, computer filing systems and other software owned by a court or entrusted to it;

Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access;

Data feeds by and between courts when using the Ohio Courts Network.

“Personal identifiers” means social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; and a juvenile’s name in an abuse, neglect, or dependency case, except for the juvenile’s initials or a generic abbreviation such as “CV” of “child victim.”

“Public access” means both direct access and remote access.

“Direct access” means the ability of any person to inspect and obtain a copy of a court record at all reasonable times during regular business hours at the place where the record is made available.

“Remote access” means the ability of any person to electronically search, inspect, and copy a court record at a location other than the place where the record is made available.

“Bulk distribution” means the distribution of a compilation of information from more than one court record.

“New compilation” means a collection of information obtained through the selection, aggregation or reformulation of information from more than one court record.

The term “new compilation” does not include a collection of information produced by a computer system that is already programmed to provide the requested output.

RESTRICTING PUBLIC ACCESS

Any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion to the court, request that the court restrict public access to the information or, if necessary, the entire document. Additionally, the court may restrict public access to the information in the case document or, if necessary, the entire document upon its own order. The court shall give notice of the motion or order to all parties in the case. The court may schedule a hearing on the motion.

A court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

Whether public policy is served by restricting public access;

Whether any state, federal, or common law exempts the document or information from public access;

Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

When restricting public access to a case document of information in a case document, the court shall use the least restrictive means available, including but not limited to the following:

Redacting the information rather than limiting public access to the entire documents;

Restricting remote access to either the document or the information for a specific period of time;

Restricting public access to either the document or the information for a specific period of time;

Using a generic title or description for the document or the information in a case management system or register or actions;

Using initials or other identifier for the parties' proper names.

If a court orders the redaction of information in a case document, a redacted version of the document shall be filed in the case file along with a copy of the court's order. If a court orders that the entire case document be restricted from public access, a copy of the court's order shall be filed in the case file. A journal entry shall reflect the court's order. Case documents ordered

restricted from public access or information in documents ordered redacted shall not be available for public access and shall be maintained separately in the case file.

Public access to a case document or information in a case document may be restricted upon the motion of parties or nonparties in a legal proceeding or upon the Court's own motion. The Court will decide whether or not to restrict access based on clear or convincing evidence that the presumption of public access is outweighed by some other higher interest. The Court may consider any of the following in deciding the presence or absence of a higher interest: (1) whether public policy is served by restricting public access; (2) whether any state, federal, or common law exempts the document or information from public access; (3) whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

When access is restricted, the court will utilize the least restrictive means possible in order to assure the maximum degree of transparency. Such measures may include, but are not limited to, redaction, restriction of remote access, time, generic titles in case management systems, or initials in place of parties' actual names.

Furthermore, a journal entry shall be prepared and made available to the public reflecting the Court's order that access to a record or case document has been restricted.

OBTAINING ACCESS TO A RESTRICTED DOCUMENT

Any person, by written motion to the court, may request access to a case document of information in a case document that has been granted restricted public access pursuant to division (E) of Sup. R. 44. The court shall give notice of the motion to all parties in the case and, where possible, to the non-party person who requested that public access be restricted. The court may schedule a hearing on the motion.

A court may permit public access to a case document or information in a case document if it finds by clear and convincing evidence that the presumption of allowing public access is no longer outweighed by a higher interest. When making this determination, the court shall consider whether the original reason for the restriction of public access to the case document or information in the case document pursuant to division (E) of Sup. R. 44 no longer exists or is no longer applicable and whether any new circumstances, as set forth in that division, have arisen which would require the restriction of public access.

REQUESTS FOR BULK DISTRIBUTION AND NEW COMPILATIONS

Any person, upon request, shall receive bulk distribution of information in court records, provided that the bulk distribution does not require creation of a new compilation. The court or clerk of court shall permit the requestor to choose that the bulk distribution be provided upon paper, upon the same medium upon which the court or clerk keeps the information, or upon any other medium the court or clerk determines it can be reasonably duplicated as an integral part of its normal operations, unless the choice requires a new compilation.

The bulk distribution shall include a time or date stamp indicating the compilation date. A person who receives a bulk distribution of information in court records for redistribution shall keep the information current and delete inaccurate, sealed, or expunged information in accordance with Sup. R. 26.

A court or clerk of court may create a new compilation customized for the convenience of a person who requests a bulk distribution of information in court records.

In determining whether to create a new compilation, a court or clerk of court may consider if creating the new compilation is an appropriate use of its available resources and is consistent with the principles of public access.

If a court or clerk of court chooses to create a new compilation, it may require personnel costs in addition to actual costs. The court or the clerk may require a deposit of the estimated actual and personnel costs to create the new compilation.

A court or clerk of court shall maintain a copy and provide public access to any new compilation. After recouping the personnel costs to create the new compilation from the original requestor, the court or clerk of court may later access only actual costs.

A court or clerk of court that contracts with a provider of information technology support to gather, store, or make accessible court records shall require the provider to comply with requirements of Sup. R. 44 through 47, agree to protect the confidentiality of the records, notify the court or clerk of court of all bulk distribution and new compilation requests, including its own, and acknowledge that it has no ownership or proprietary rights to the records.

Any person may request a bulk distribution of information from court records and the Clerk may, by his or her own discretion, create a new compilation of those records for the convenience of the person making the request.

RESPONSE TIMEFRAME

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Court records must be made available for inspection promptly within a reasonable period of time. The terms “prompt” and “reasonable” take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and/or redaction of the records requested.

It is the goal of Marietta Municipal Court that all requests for public records should be acknowledged in writing or, if possible, satisfied within five business days following the Court’s receipt of the request. If a request is lengthy or will require research, the acknowledgement of the request must be provided in writing and include an estimated number of business days to complete the request, an estimated cost if copies are requested, and any items within the request that may be exempt from disclosure.

HANDLING REQUESTS

No specific language is required to make a request for public records. However, the requester must at least identify the records requested with sufficient clarity to allow the Clerk or Deputy Clerks to identify, retrieve, and review the records. If it is not clear what records are being sought, the Clerk’s office must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which court records are maintained.

The requester does not have to put a records request in writing, nor provide his or her identity or the intended use of the requested public record. It is Marietta Municipal Court’s general policy that this information is not to be requested. However, the law does permit the court to ask for a written request, the requester’s identity, and/or the intended use of the information requested, but only:

1. if the written request or disclosure of identity or intended use would benefit the requester by enhancing the Clerk or Deputy Clerk’s ability to identify, locate, or deliver the court records that have been requested;
2. after telling the requester that a written request is not required and that the requester may decline to reveal his or her identity or the intended use of the records.

In processing the request, the Court does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. Although not required by law or the Rules of Superintendence for the Courts of Ohio,

the Court may, at its own discretion, accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.

In addition, a copy of the Rules of Superintendence for the Courts of Ohio pertaining to the maintenance of court records is available on the website of the Supreme Court of Ohio (<http://www.supremecourt.ohio.gov/Boards/superintendence/PAR/>) for the purpose of keeping court employees and the public educated as to the court's obligation under Sup.R. 44-47.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device (such as a cell phone or BlackBerry) are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Court record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of the Court are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

DENIAL OR REDACTION OF RECORDS

If the requester makes an ambiguous or overly broad request or has difficulty in making a request for court records, the request may be denied, but the denial must provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the court.

Any denial of public records requested must include an explanation, including legal authority and/or a copy of the journal entry restricting access to the record. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt or restricted, the exempt or restricted portions may be redacted and the rest released. When making public records available for public inspection or copying, the court shall notify the requester of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, include legal authority and /or a copy of the journal entry restricting access to the information or record.

COPYING AND MAILING COSTS

Those seeking public records may be charged only the actual cost of making copies, not labor. The charge for paper copies is \$0.05 per page. The charge for certified paper copies is \$0.25 per page. The charge for electronic files downloaded to a compact disc or a USB flash drive is \$5.00.

A requester may be required to pay in advance for costs involved in providing the copy. The requester may choose whether to have the record duplicated upon paper, upon the same medium in which the public record is kept, or upon any other medium on which the court determines that the record can be reasonably duplicated as a part of the court's normal operations.

If the requester asks that documents be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for documents e-mailed.

MANAGING RECORDS

Marietta Municipal Court records are subject to records retention schedules. Specifically, the Rules of Superintendence for the Courts of Ohio set forth the following retention schedules for municipal courts:

1. Auditor reports – permanently.
2. Monetary records – three years.
3. Rental and escrow account records – five years.
4. Yearly reports – permanently.
5. The docket, index, journal, and administrative journal – twenty-five years.
6. Civil case files –two years.
7. OVI case files – fifty years.
8. First through Fourth degree misdemeanor traffic files – twenty-five years (except in OVI cases).
9. First through Fourth degree misdemeanor criminal files – fifty years.
10. Minor misdemeanors – five years
11. Parking ticket records – until the ticket is paid.
12. Search warrant records – five years.
13. Employment applications – 2 years
14. Employee benefit and leave records – 3 years
15. Employee history and disciplinary records – 10 years after the end of employment
16. Requests for proposals, bids, and resulting contracts – 3 years following expiration of contract
17. Communication records (including telephone records where official action will be recorded elsewhere), correspondence (including email), general office records, and drafts and informal notes may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

The above records schedules and the schedules for any other records not named above are in compliance with the standards set forth by Rules 26.01 and 26.05 of the Rules of Superintendence for the Courts of Ohio distributed by the Supreme Court of Ohio. The

current court schedules and the text of the rules are available on the Supreme Court of Ohio's website at

<http://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf> . The public may access the rules and the schedules set forth there and adhered to by Marietta Municipal Court at that website.

Records beyond the schedule ranges above are occasionally still maintained by the court. If such records are present they will be made accessible to the public; however, the Court makes no guarantee that such records will be maintained.

REMEDY FOR DENIAL OF ACCESS TO PUBLIC RECORDS

The Court recognizes the legal and non-legal consequences of failure to properly respond to a court records request.

Any person who believes that his/her records request has not been adequately addressed by the Court should contact the Court Administrator either in writing (by delivering a letter to the counter or mailing it to the Court, 259 Butler St., Marietta, OH 45750) or via email at jasonhamilton@mariettaoh.net

A person who is aggrieved by the failure of Marietta Municipal Court to comply with the requirements of the Rules of Superintendence for the Courts of Ohio Rules 44 through 47 for public access to court records may pursue an action of mandamus compelling the court to disclose said records pursuant to Chapter 2731 of the Ohio Revised Code.

Revised August 8, 2022

Revised January 8, 2015

Adopted July 26, 2010

I://Public Access Policy/Public_Records_Policy[1]

MARIETTA MUNICIPAL COURT

EXHIBIT B

Traffic / Criminal

CONFIDENTIAL DISCLOSURE OF PERSONAL IDENTIFIERS

Complete all applicable information (PLEASE PRINT)

Defendant Name _____ DOB _____

Social Security Number _____

Citation No _____ Charge(s) _____

Juvenile Victim Name _____

Address _____

Phone Number _____

Other Information _____

Arresting Agency _____

Officer Name _____ Unit Number _____

Booking Information

_____ Needs Fingerprinted and Photographed

_____ Booking process is complete

_____ Minor misdemeanor or traffic charges (no processing necessary)
(ALL OVI'S MUST BE PRINTED)

**MARIETTA MUNICIPAL COURT
WASHINGTON COUNTY, OHIO**
(Civil/Court Costs, effective 07/01/22)

EXHIBIT C

1. Complaint (any civil case not otherwise provided for)	\$125.00
Each additional defendant over 2	\$10.00
2. Personal Service (written request required)	\$30.00
3. Amended Complaint	\$50.00
4. Forcible Entry and Detainer	\$125.00
5. Replevin	\$200.00
6. Prejudgment Attachment	\$81.00
7. Action to Confess Judgment Upon Cognovit Note	\$61.00
8. Action to Revive Judgment	\$100.00
9. Transfer of Judgment	\$20.00
10. Counterclaim or Cross Claim (only if service is requested)	\$61.00
11. Request for Jury Trial	\$150.00
12. Execution	\$125.00
13. Bank Garnishment (Add garnishee fee as provided by law \$1.00)	\$50.00
14. Notice to Appear and Answer (Debtor's Exam)	\$30.00
Each additional defendant	\$10.00
15. Wage Garnishment	\$80.00
16. Civil Warrants	\$30.00
17. Request for List of Assets and Liabilities	\$25.00
Each additional defendant	\$10.00
18. Special Constable filing	\$61.00
19. Driving Privileges	\$61.00
Reissued/Modified Driving Letter	\$25.00
20. Certificate of Judgment	\$15.00
21. Post Judgment Contempt Action	\$30.00
22. Motion to Vacate Judgment	\$50.00
23. Small Claims	\$60.00
Each additional defendant	\$10.00

24. Dog Designation Appeal	\$125.00
25. Certified Mail	\$10.00
26. Triple Seal	\$25.00
27. Bailiff Set Out Fee	\$50.00
28. Motion for Default	\$25.00
29. Motion for Summary Judgment	\$50.00
30. Appeal Processing Fee	\$100.00

SUCH COSTS ARE REQUIRED TO BE PAID AT THE TIME OF FILING OF THE INITIAL DOCUMENTS INSTITUTING THE PROCEEDINGS.

ANY COST REQUIRED UNDER THIS RULE OF COURT MAY BE WAIVED AS PROVIDED BY OHIO REVISED CODE 1901.26(B).

A DEPOSIT MAY BE REQUIRED IN CERTAIN CASES UPON REQUEST OF THE COURT IE: PUBLICATIONS, BAILIFF SALES, ETC.

**IN THE MARIETTA MUNICIPAL COURT
WASHINGTON COUNTY, OHIO**

EXHIBIT D

**APPOINTED COUNSEL APPLICATION
(Local Court Rule 14)**

Name: _____

Attorney Registration No.: _____

Local Office Address: _____

Cell Phone Number: _____

Email Address: _____

Years in Practice of Law in Ohio: _____

I hereby certify that:

1. I am a licensed Ohio attorney in good standing.
2. Within the past two years, I have completed CLE hours as showing on the OAC § 120 – 1-10 requirement matrix and am qualified for appointments as shown on that document.
3. I maintain professional liability insurance in the amount at least equal to the minimum coverage required by the Ohio Rules of Professional Conduct.
4. I have reviewed the Court's Local Rule governing appointments and agree that I can fulfill all requirements.
5. A copy of my CLE Transcript and Profession Liability Insurance Declaration Page are submitted with this application. The applicable CLE hours are highlighted.

Signature

Date

V. Ohio Administrative Code §120-1-10 Requirements

Please check all the offenses for which you meet the requirements of OAC 120-1-10.

Felony	Training*	Experience
<input type="checkbox"/> Life-sentence**	Minimum 12 hours CLE in criminal practice and procedure in the last 2 years.	At least 5 years of experience in criminal law AND Within the last 10 years, experience as lead trial counsel in 5 felony jury trials, at least 3 of which involve felony charges of the 1 st or 2 nd degree OR as lead counsel in 3 jury trials, at least 1 of which was a 3 rd degree felony and as co-counsel in 5 additional jury trial, at least 3 of which were 1 st or 2 nd degree felonies
<input type="checkbox"/> 1 st and 2 nd degree	Minimum 12 hours CLE in criminal practice and procedure in the last 2 years.	At least 3 years of experience in criminal law AND Within the last 10 years, experience as lead trial counsel in 2 criminal jury trials, at least 1 of which involved felony charges OR as lead counsel in 1 felony jury trial and as co-counsel in 2 additional jury trials
<input type="checkbox"/> 3 rd degree	Minimum 12 hours CLE in criminal practice and procedure in the last 2 years.	At least one year of experience in criminal law AND Within the last 6 years, experience as lead trial counsel in at least 1 criminal jury trial or as co-counsel in at least 2 jury trials
<input type="checkbox"/> 4 th and 5 th degree	Minimum 12 hours CLE in criminal practice and procedure in the last 2 years.	At least 1 year of experience in criminal law
<input type="checkbox"/> OVI	Minimum 6 hours CLE in OVI practice and procedure in addition to what is required for felony level.	

* CLE hours must be certified by the Ohio Supreme Court Commission on Continuing Legal Education.

** Any case where the defendant is charged with a felony that carries a potential maximum sentence of life imprisonment, whether eligible or ineligible for parole.

Misdemeanor	Training*	Experience
<input type="checkbox"/> 1 st , 2 nd , 3 rd , and 4 th degree	Minimum 6 hours CLE in criminal practice or procedure OR Successful completion of a clinical education program focusing on criminal defense	In lieu of required training, at least 1 year of experience as an attorney
<input type="checkbox"/> OVI	Minimum 6 hours CLE in OVI practice and procedure in addition to what is required for felony level.	

* CLE hours must be certified by the Ohio Supreme Court Commission on Continuing Legal Education.

IN THE MARIETTA MUNICIPAL COURT EXHIBIT E
MISDEMEANOR BOND SCHEDULE

Pursuant to Crim.R 46(G), the misdemeanor bond schedule for misdemeanor charges, including traffic offenses, **unless excluded below in #2**, shall be set as follows:

1. Personal recognizance is the general rule for Ohio Residents.

However, if the police officer or prosecutor, based on the circumstances of the case, reasonably believes that a personal recognizance bond is insufficient to assure the Defendant's appearance, the Judge shall be contacted for additional authority. If the Judge determines that personal bail is insufficient, the conditions of release shall be set pursuant to Crim.R. 46.

When the Judge has previously set bail in a case, or has ordered a new amount in its last warrant, that bail shall remain in effect unless otherwise ordered by the Judge.

Charges excluded from rebuttable presumption of Personal Recognizance:

2. Misdemeanor charges, regardless of residency and regardless of whether charged under the Ohio Revised Code, local ordinance, or other statutory provision for:
 - A. Domestic violence or any other offense of violence if the victim is a family or household member (see R.C. 2919.251)
 - B. Violation of any protection order
 - C. Violation of community control or probation
 - D. The following offenses if the accused was subject to a protection order and/or has a prior conviction involving the same complainant/victim, pursuant to R.C. 2903.212:

Aggravated menacing (R.C. 2903.21), Menacing by stalking (R.C. 2903.211), Menacing (R.C. 2903.22), Aggravated trespass (R.C. 2911.211), Any sexually oriented offense as defined by R.C. 2950.01
 - E. Any other offense when the victim, police officer, or prosecutor is seeking a protection order, no contact order, or other conditions of bond.
3. Non-waiverable criminal and traffic misdemeanors where the accused is a non-resident see schedule attached hereto as Appendix A and as amended hereafter, unless the arresting officer reasonably believes that the accused will appear after signing a personal recognizance bond.

Note: The Court will establish bond for felony offenses on a case-by-case basis at Defendant's initial court appearance in custody.

SCHEDULE OF MISDEMEANOR BONDS – CRIMINAL

This schedule is published pursuant to Criminal Rule 46(G). The Court will establish bond for felony offenses on a case-by-case basis at arraignment.

For all misdemeanor offenses for which there are currently no specific bonds provided by Court schedule, bonds shall be as follows:

Regardless of Defendant's residency

Domestic Violence M-1 and M-4 (2919.25)	Court to set bond.
Any misdemeanor charge that a TPO is requested	Court to set bond.
TPO violations (2919.27).	\$2,500

Residence outside Washington County or history of failure to appear

OVI, OVUAC, Physical Control	\$2,500
DUS 4510.037 (12 pt), 4510.11 (Court), 4510.14 (OVI)	\$2,500
All other DUS and never licensed 4510.12	\$500
Misdemeanor 1	\$1,000
Misdemeanor 2	\$750
Misdemeanor 3	\$500
Misdemeanor 4	\$250
Minor Misdemeanor – maximum Fine of \$150	\$250
Minor Misdemeanor – maximum Fine of \$50.00	\$175

NOTE: A \$25.00 surcharge is to be paid on all cash and surety bonds at the time of posting. This is an additional fee imposed by State law.

Schedule of Waivers and Bonds
Minor Misdemeanor Traffic and Criminal

<u>State Code</u>	<u>Mtta. Ord.</u>	<u>Description of Offense</u>	<u>Waiver</u>	<u>Bond</u>
4511.21	333.03	Speed Violations		
		Exceeding Speed Limit by		
		First Offense		
		1 to 15 mph	\$135	\$175
		16 to 25 mph	\$165	\$200
		26 or more	\$225	\$300
		Exceeding Speed Limit by		
		Second Offense in 1 year		
		0 to 15 mph	\$160	\$200
		16 to 25 mph	\$190	\$225
		26 or more	\$250	\$300
		Excessive Speed		
		Third Offense in 1 year	MA	\$300
		Other Speeding Offenses	MA	\$300
		Business District (Marietta City only) - Faster than 35 mph in a 25 mph zone		
		School Zone – Faster than 35 mph in a 20 mph zone during restricted hours		
		Marietta City Limits – Faster than 50 mph in a Municipal Corp.		

Distracted Driving

Contact the Court

4511.213	Approach Stationary Public Safety Vehicle	\$200	\$250
4513.263	Operating without a Seatbelt (driver)	\$111	\$125
	Passenger	\$101	\$125

All Minor Misdemeanor Traffic Violations (except speed, reckless operation, distracted driving and approach stationary public safety vehicle)

1 st offense	\$150	\$175
2 nd offense within 1 year	\$175	\$200
3 rd offense or more within 1 year	MA	\$300

Note: The waiver amount on this table represents the total of the fine plus court costs. Court costs are \$100 for traffic offenses (seatbelt \$81) and \$105 for criminal offenses.

NOTE: A \$25.00 surcharge is to be paid on all cash and surety bonds at the time of posting. This is an additional fee imposed by State law.

4510.12C2	335.01A	Expired OL (1st or 2nd in 3 years, 3rd in 3 years, MA)	\$250	\$275
4511.20	333.02A	Reckless Operation on Highway	MA	\$300
4511.201	333.02B	Reckless Operation off Highway	MA	\$300
2925.141		Possession Marijuana Drug Paraphernalia	\$230	\$300
2925.11	513.03	Possession of Marijuana	\$230	\$300
2917.11	509.03	Disorderly Conduct	\$155	\$175
4301.62	529.07	Open Container	\$155	\$175
4510.111		DUS (License Forfeiture or Child Support Suspension)	\$450	\$500
4510.16		DUS (FRA or Judgment Suspension)	\$450	\$500
4510.21		Failure to Reinstate	\$450	\$500
		Other minor misdemeanor criminal (except possession of marijuana)	\$155	\$175

Note: The waiver amount on this table represents the total of the fine plus court costs. Court costs are \$100 for traffic offenses (seatbelt \$81) and \$105 for criminal offenses.

NOTE: A \$25.00 surcharge is to be paid on all cash and surety bonds at the time of posting. This is an additional fee imposed by State law.

Schedule for Wildlife Officer Charges

Wildlife Violation Bond Forfeiture Schedule

Misdemeanor- 4	\$155
Misdemeanor- 3	\$250
Misdemeanor -2	Mandatory Appearance
Misdemeanor -1	Mandatory Appearance

Bond Schedule Other Offenses: (traffic, possession, littering, etc.)

	Bond/Waiver
Minor Misdemeanor	\$155
Misdemeanor-4	\$250
Misdemeanor-3	\$500
Misdemeanor-2	\$750
Misdemeanor-1	\$1,000 (OVI: \$2,500, DV No Bond)
Felonies	Bond to be set by Judge

Note: Third offense traffic and reckless operation are **NOT** waiverable.

Officer may permit a Personal Recognizance Bond for a local resident unless the officer reasonably believes Defendant will fail to appear.

NOTE: A \$25.00 surcharge is to be paid on all cash and surety bonds at the time of posting. This is an additional fee imposed by State law.

OVERLOADS

SCHEDULE OF FINE AND COSTS (waiver), AND BONDS

<u>State Code</u>	<u>Mtta. Ord.</u>	<u>Description of Offense</u>	<u>Waiver</u>	<u>Bond</u>
		Minimum Fine for Axle Overload	\$180	\$200
		Minimum Fine for Gross Overload	\$200	\$220
5577.04 .041	339.01	Overload Violations (Gross or Axle)		
		First 2,000 pounds	\$180	\$200
		Over 2,000 to 5,000 pounds \$100 plus \$1 per 100 pounds	Computed Plus Court Cost	
		OVER 5,000 to 10,000 pounds \$130 plus \$2 per 100 pounds OR 30 days OR both (Minimum \$230)	MA	Computed Plus Court Cost
		Over 10,000 pounds \$160 plus \$3 per 100 pounds	MA	Computed Plus Court Cost

NOTE: A \$25.00 surcharge is to be paid on all cash and surety bonds at the time of posting. This is an additional fee imposed by State law.