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APPENDIX

APPENDIX A: SCHEDULE OF COSTS-TRAFFIC AND CRIMINAL DIVISIONS

APPENDIX B: SCHEDULE OF COSTS-CIVIL DIVISION

RULE NO. 1
Jurisdiction of the Court

The territorial jurisdiction of the Portsmouth Municipal Court includes all of Scioto County. The monetary jurisdiction of the Portsmouth Municipal Court shall be in an amount as provided for the appropriate section of the Ohio Revised Code. (Sec. 1901.17 Ohio Revised Code).

RULE NO. 2
Times of Holding Court

- A. The sessions of this Court shall be from 9:00 a.m. until 4:00 p.m. during Monday through Friday each week, legal holidays excepted. The office of the clerk shall be open for the transaction of business from 8:00 a.m. to 4:00 p.m. during Monday through Friday each week, legal holidays excepted. The clerk's office may be closed at such other times as the Court may designate.
- B. To facilitate the issuance of such papers as might be discovered necessary during a trial which may extend beyond the conclusion of the court day at 4:00 p.m., the Clerk is instructed to keep the Clerk's office facilities available. Should a trial extend beyond 4:00 p.m. the Clerk shall remain available or shall have at least one deputy clerk available until the conclusion of all trials for that day.
- C. Each judge shall have full discretion in the disposition of the work of his office, and shall have the right to make his own rules and regulations with respect to the time of convening and adjourning. In the absence of any order by a judge to the contrary, five days of the week, Monday through and including Friday, shall be for regular Court work with attendance of jurors, such as are necessary.
- D. The judges shall hold joint sessions from time to time for the purpose of considering matters of general importance to the Court, and important questions of fact or law involved in any case pending before any one or more of the judges. Such joint sessions may be called by the Presiding and Administrative Judge on his own motion, or whenever requested to do so by any of the judges.
- E. The judges shall hold separate sessions in their respective courtrooms and transact such business as may be assigned to them under these rules or by the Presiding and Administrative Judge.

RULE NO. 3
Assignment of Cases Between Judges

Assignment of cases between judges shall be in accordance with Municipal Court Rules of Superintendence Rule 3(B)(1).

Judges shall rotate assignment to particular sessions each week, insofar as is possible, having regard to vacation schedules, trials, illness, or other matters which might interrupt such rotation. The Presiding and Administrative Judge may rearrange the assignment to particular sessions on a schedule other than is set forth herein, so as to maintain approximate equality in assignment to particular sessions.

When the judge who is assigned to a particular session has a conflict because of jury trial, the remaining judge, if he is available and not in jury trial himself, shall take the particular assignments.

RULE NO. 4
Preservation of Papers

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 use in court or by the Court, except on written order of the Court.

RULE NO. 5
Holding of Jury Trials

Jury trials will be held throughout the year on Tuesdays and Thursdays, or as otherwise designated by the judge to whom the case is assigned.

In the event that a holiday precedes a jury day, the courtroom of the judge assigned to the particular session shall be held available for arraignments and no jury trial shall be scheduled in that courtroom unless approved by such judge.

RULE NO. 6
Jury Selection

Jurors to be used in the Portsmouth Municipal Court shall be chosen and

summoned by the jury commissioners of Scioto County as provided in Section 2313.01 to 2313.26, inclusive, of the Ohio Revised Code, subject to the exceptions hereafter set forth.

The clerk shall, approximately every three month, notify the jury commissioners of Scioto County of the number of jurors needed in the Portsmouth Municipal Court for the next three month period. A new panel of jurors shall be chosen approximately every month and the jurors shall then be divided between courtroom A and B, although they may be used interchangeably between the courtrooms in the discretion of the trial judge.

Section 2313.16 of the Ohio Revised Code is hereby declared not to be applicable to the Portsmouth Municipal Court pursuant to the authority of Section 1901.25, Ohio Revised Code. The judge presiding in the courtroom for which the juror is to serve, or in his absence, either judge of the Court, may excuse a juror for good cause shown. Such excuse may be for a particular date or dates, or for the entire term.

RULE NO. 7 **Court Reporter**

The Court Reporter shall record arraignments, preliminary hearings, and such other matters as may be designated by the judge. In every case reported by the Court Reporter, the fee provided by the court order pertaining to costs in the Portsmouth Municipal Court for transcripts shall be paid directly to the Court Reporter. Before the Court Reporter shall begin making a written transcript, the party requesting the same shall deposit, if requested, an amount sufficient to cover the estimated cost of the written transcript, said amount to be determined by the Court Reporter. At the completion of the written transcript, if the deposit is not sufficient, the balance shall be paid before the written transcript is released to the party.

The Court Reporter shall be paid for all transcripts, including those requested by the judge or by the prosecutor's office. No transcript shall be copied by any attorney, solicitor or any other person without the written consent of the Court Reporter.

In felony cases, if a transcript of the preliminary hearing proceedings is requested for an indigent defendant, an entry must be approved by a Common Pleas Court Judge ordering such transcript. In such cases, the

governmental agency (City of Portsmouth or the State of Ohio, as the case may be) shall pay for such transcripts, such amount to be taxed as costs.

RULE NO. 8
CIVIL JURY TRIALS AND DEMANDS

(The definition of "clerk" refers to the Portsmouth Municipal Court Clerk or any deputy clerk assigned to this office.)

- A. A demand for a civil jury trial shall be made as required by Civil Rule 38 and shall be accompanied by a deposit of \$875.00 as security for the first day jury cost. Said sum shall be applied to the costs of the case in the event that costs are taxed to the party posting such deposit upon disposition of the case. 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, and 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 trial and it 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 the trial.

RULE NO. 9
Civil 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.

RULE NO. 10
Civil Court Costs and Security Deposits

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

RULE NO. 11
Civil 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 proceeding for the first time.

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 proceeding 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 (14th) 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 (14th) 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 other 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 NO. 12

Withdrawal of Trial Counsel-Civil Trial

- 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 Administrative Judge. No such application will be considered unless:
 - (1) A written entry or motion is presented stating the reasons for the application. The entry or motion will contain the following:
 - (a) The time and date of trial, if set.
 - (b) A certification of service to opposing counsel.
 - (c) Certification that the client has been notified that the attorney is seeking to withdraw from the case.
 - (d) 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.
- D. If the judge assigned to a case finds that Municipal Court Rule of Superintendence 16(C) is applicable, he shall refer such matter to the Administrative Judge for determination.

RULE NO. 13
Change of Trial Counsel-Civil Trial

Once trial counsel has been designated, such designation shall remain until termination of the case. Change of trial counsel may be permitted by the judge assigned to the case 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 NO. 14
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 a 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 NO. 15
Pretrial Procedure for Civil Cases

- A. The pretrial 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 pretrials as scheduled, and that the parties to the case, or a 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 the pretrial.)

Unless leave of Court is first obtained, failure of plaintiff or plaintiff's attorney to appear at a schedule pretrial conference may be ground 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 pretrials may be granted only by the Court, and no continuance shall be granted without approval of the judge before whom the pretrial is scheduled.

RULE NO. 16

Default Judgment

A party seeking a default judgment pursuant to Ohio Civil Rule 55 shall file a written motion and a proposal Judgment Entry with the Clerk of Courts. Military Affidavits pursuant to the Soldiers and Sailors Relief Act shall be filed with the proposed entry, unless filed earlier.

If the claim is liquidated, in addition to the motion, the moving party shall file an affidavit 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 Magistrate. 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 of 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 Judge or Magistrate may require testimony under oath or by affidavit. At the conclusion of the hearing, if the Judge or Magistrate is satisfied that service of summons and complaint has been obtained, and the evidence presented establishes the party's entitlement to judgment, the Judge or magistrate shall prepare a Decision and file it with the Clerk. Copies of the Judge's or Magistrate's Decision shall be served upon the parties or their attorneys by the Clerk, such notice to contain language the

Objections to the Judge's or Magistrate's Decision must be filed within fourteen (14) days of the filing of the Decision.

RULE NO. 17
Failure of Service-Civil

In the event there is a failure of service of summons, the complainant or his attorney shall make additional effort within ninety (90) days of the original failure of service.

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 NO. 18
Assignment of Cases-Civil

All cases are subject to being assigned for pretrial 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 pretrial or trial, and continuances to a certain day will only be granted upon the demonstration to the satisfaction of the Court of the necessity for the continuance.

RULE NO. 19
Sales and Proceedings in Aid of Execution-Civil

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 as to the type, size, and number of items to be levied upon, so that the bailiff can make 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 vehicle, the party or his attorney shall furnish the bailiff with an accurate description of the automobile or motor vehicle, a license number or serial number, and a written statement as to whether there is a lien of record on the vehicle in the office of the Scioto County Clerk of courts. 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 by referring to the appropriate book valuation. If there is a lien on the vehicle, the name of the lienholder 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, he shall require the party seeking the levy to post 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 of the Ohio Revised Code.

RULE NO. 20 **Garnishment Proceedings**

All garnishment proceedings shall be in the form required by Section 2715.11 of the 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 of the Ohio Revised Code, and by the garnishee's fee provided by Section 2715.111 of the Ohio Revised Code. The Clerk of this Court is instructed to refuse to accept for filing any garnishment papers not complying with this rule.

RULE NO. 21 **Judgment Debtor Examination**

Judgment debtor examinations shall be scheduled in front of the Judge or Magistrate. If the judgment debtor fails to appear after having been served with the order to appear, it is the duty of the applicant for the judgment debtor exam or his attorney, to file appropriate papers to initiate contempt of court proceedings against the judgment debtor, unless the Court directs that other action be taken.

Motions to cite judgment debtors for failure to appear for examination shall be identified as to the judge and court offended as pre-judgment

pleadings per local Rule 11(C) or the same shall not be accepted for filing by the clerk.

RULE NO. 22
Forcible Entry and Detainer

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

- (A) **Hearing:** All forcible entry and detainer cases shall be set for hearing before the Magistrate or Judge, 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 Magistrate shall, at the conclusion of the hearing, file his or her written findings within seven (7) days and cause a copy to be served on the plaintiff and defendant.
- (B) **Judgment Entries:** The Court shall review the findings of the Magistrate weekly and enter the appropriate judgment entry. Default judgment on damage claims shall proceed in accordance with Rule 9(A).
- (C) **Objections to Magistrate's Findings:** The magistrate shall, at the conclusion of each case serve a copy of his/her findings upon the plaintiff and defendant and inform the parties that they may file objections to the Magistrate's findings within fourteen (14) days in writing.

The objections to the Magistrate's findings should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion unless, upon good cause shown, the Judge grants same. The Court shall, after consideration of the reasons in the objections to the Magistrate's findings, rule on said objections to Magistrate's findings within fourteen (14) days of the filing of the objections.

- (D) If an answer or jury demand is filed in a forcible entry and detainer case, then the clerk shall forward the case to a judge so the case can be scheduled for the appropriate hearing.

RULE NO. 23
Small Claims Division

Pursuant to Section 1925.01 of the Ohio Revised Code, and Ohio Civil Rule 53, the position of Small Claims Magistrate has been heretofore established by the Court and shall continue to exist. The appointments to fill any vacancy in the position shall be made by the judges of the Court, and the appointee shall serve at the pleasure of the judges for such term as they deem advisable.

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 index and docket, setting them for hearing, receiving the Court costs and money paid on judgments, and accounting for the same.

The judges of the Court may hear small claims cases when the Magistrate is unable to hear such cases, or when the judges otherwise deem it advisable to hear such cases.

- (E) Hearing: All forcible entry and detainer cases shall be set for hearing before the Magistrate or Judge, 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 Magistrate shall, at the conclusion of the hearing, file his or her written findings within seven (7) days and cause a copy to be served on the plaintiff and defendant.
- (F) Judgment Entries: The Court shall review the findings of the Magistrate weekly and enter the appropriate judgment entry. Default judgment on damage claims shall proceed in accordance with Rule 9(A).
- (G) Objections to Magistrate's Findings: The magistrate shall, at the conclusion of each case serve a copy of his/her findings upon the plaintiff and defendant and inform the parties that they may file objections to the Magistrate's findings within fourteen (14) days in writing.

The objections to the Magistrate's findings should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion unless, upon good cause shown, the

Judge grants same. The Court shall, after consideration of the reasons in the objections to the Magistrate's findings, rule on said objections to Magistrate's findings within fourteen (14) days of the filing of the objections.

- (H) If an answer or jury demand is filed in a forcible entry and detainer case, then the clerk shall forward the case to a judge so the case can be scheduled for the appropriate hearing.
- (A) A small claims action is commenced by filing a Small Claims Petition pursuant to Ohio Revised Code Section 1925.04 on the form provided by the clerk of this Court. 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 will 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 Section 1925.10, and upon payment of the required cost, the small claim will 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 an answer or move 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 Magistrate. The Magistrate 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) Appeal from Hearing: The Magistrate shall, at the conclusion of each case, serve a copy of his/her finding upon the plaintiff and defendant and inform the parties that they may file objections to the Magistrate's findings within fourteen (14) days, in writing.

The objections to the Magistrate's findings should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion. The Court shall, after consideration of the reasons in the objections to the Magistrate's findings, rule on

said objections to Magistrate's findings within fourteen (14) days of the filing of the objections.

- (E) The Judge shall review the findings of the Magistrate each week and enter the appropriate judgment.
- (F) Collection of Judgments: The employees of the Court shall assist the prevailing parties in collecting their judgments pursuant to Ohio Revised Code Section 1925.13.

RULE NO. 24
Trusteeship

Sections 2329.70 and 2329.71 of the Ohio Revised Code shall govern all applications for trusteeship in this Court.

RULE NO. 25
Caseflow Management in Civil Cases

- A. Purpose: 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. Scheduling of events: The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five (5) clerical steps and four (4) judicial steps.
- C. Clerical steps:
 - (1) 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 of 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 ten (10) days unless good cause is shown to the contrary.
 - (2) Upon perfection of service, the clerk shall notify counsel of the default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.

- (3) After any responsive pleading is filed, the clerk shall immediately forward said pleading and file to the judge so the matter may be set for hearing.
- (4) 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 one (1) week unless good cause is shown.
- (5) 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 case will be dismissed unless the entry is received within ten (10) days.

D. Judicial Steps:

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.

Pretrials: For the purpose of this rule, "pretrial" shall mean a court-supervised 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 at a scheduled pretrial conference, without just cause being shown, may be cited for contempt of this Court.

Notice of pretrial conference shall be given to all counsel of record by mail and/or telephone from the assignment commissioner not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the judge to whom the case has been assigned.

Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority.

The primary purpose of the pretrial conference shall be to achieve an amicable settlement to the controversy in suit. The court shall attempt to narrow legal issues to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The Court will file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it in the pretrial. The Court shall, at that time, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed.

Any judge presiding at pretrial conference of trial 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 pretrial 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 pretrial conference of trials as required; to make such other order as the Court may deem appropriate under all the circumstances.

If the case cannot be settled at pretrial, then the case will be set for trial at a time agreeable to all parties.

3. Continuances: No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reason for the continuance.

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, the case which was first set for trial shall have priority and shall be tried on the date assigned. Movant shall name the court and state the date which the case was scheduled in conflict in order to facilitate this process. Motions filed without this information are subject to dismissal. Criminal cases assigned for trial have priority over civil cases assigned for trial. 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.

4. 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 he will prepare the 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, or, hereafter, the Court will prepare the journal entry and may charge a Court cost of \$50.00 to the party in whose favor an order of judgment is rendered.

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.

Upon notification from the clerk that the case has defaulted, prevailing counsel shall submit an application for default judgment within fifteen (15) days or the case will be dismissed for want of prosecution. The journal entry shall state which party will pay the Court costs.

RULE NO. 26

Case Management in Special Proceedings- Civil

- (A) Purpose: 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 Magistrate, to-wit: Small claims, Forcible Entry and Detainer, default hearings, rent escrow, Replevin, Motion to City, 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) 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.
- (C) Clerical Steps: 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 ten (10) days unless good cause is shown to the contrary.
- (D) Upon perfection of service, the clerk shall notify counsel of said default and that a failure to submit an entry within twenty-one (21) days may result in the case being dismissed.
- (E) After any responsive pleading is filed, the clerk shall immediately forward said pleading and file to the judge so the matter may be set for a hearing.
- (F) 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 one (1) week unless good cause is shown.
- (G) When a file has been marked "Settlement to Come" or "Settled/attorney to send entry" 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 ten (10) days.

RULE NO. 27

Arraignment – Criminal Cases

Arraignments shall be held at 9:00 a.m. Monday through Friday, when Court is in session, and at such other times as the Judge deems appropriate.

RULE NO. 28

Affidavits and Complaints-Criminal

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 defendant charged, the name of the offense charged, and shall contain the numerical designation of the statute or ordinance.

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). The clerk shall not accept such affidavits and open a criminal case file unless the affidavit is accompanied by a finding of probable cause that an offense has been committed. This finding must come from a prosecuting attorney. An affidavit of fact merely phrased in statutory language and in substantially the same language as the complaint is not sufficient.

Complaints may be in statutory language, but should not contain surplusage from the statute or ordinance which is not involved in the case.

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

The 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 with the Court, if requested and supervised by the filing party, or ordered by the Court.

RULE NO. 29 **Numbering of Actions-Criminal**

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 digit identifying the particular case in sequence.

Each case shall be identified by an alphabetical designator as follows:

(1) CRA "FELONY"

- (2) CRB "MISDEMEANOR" (CRIMINAL)
- (3) TRC "DRIVING UNDER THE INFLUENCE"
- (4) TRD "ALL OTHER TRAFFIC OFFENSES"

RULE NO. 30
Traffic Violations Bureau

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

RULE NO. 31
Bail, Fine and Costs Schedules

The Court has established a bail schedule for certain criminal and traffic offenses by separate entry.

The Court has also established an optional procedure in minor misdemeanor cases pursuant to Ohio Criminal Rule 1.

RULE NO. 32
Session 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.

The Administrative and Presiding Judge shall equally apportion particular session assignments. No one judge shall be assigned to a particular session of court for more than two (2) consecutive weeks.

RULE NO. 33
Notification as to Cases Set for Hearing

The Court will notify the City Solicitor, the attorney for the defendant, or the defendant, as to the dates of any hearings.

The Law Director (City Solicitor) shall notify the complaining party, officers or victims, 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.

RULE NO. 34
Pretrial 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 pretrial.

It is the order of the Court that the Law Director (City Solicitor) or his assistant, the complaining party, the defendant's attorney, and the defendant to be notified of pretrial in criminal cases and attend the pretrial.

All pretrials or those so designated on the notice are appearance pretrials.

Unless leave of Court is first obtained, any attorney or person required to attend the pretrial who fails to appear for the pretrial, may be cited for a contempt of this Court.

No pretrial shall be held if the defendant is not represented by counsel.

A pretrial may be scheduled in a non-jury case at the request of defendant or his attorney, or at the request of the Law Director or his assistant.

No criminal or traffic charge will be reduced or dismissed after the last pretrial unless parties shall show good cause excusing their failure to reach the result at the pretrial, and the Court may conduct an examination into the causes of said failure, in granting leave.

RULE NO. 35
Attorneys shall be appointed to represent indigent defendants

When the defendant in a criminal case, other than a minor misdemeanor, indicates to the Court that he is indigent and desires counsel, the Court shall appoint an attorney who is in good standing with the Court. Attorneys interested in representing indigent defendants shall make it known to the Court. The Court shall have a list of all interested and qualifying attorneys. The Court shall appoint defendants in rotation, thus assuring that all attorneys are appointed equally to cases. Defendants

shall not have the right to choose who their attorney may be, but should receive their attorney on the basis of the rotation. Those defendants who dismiss their court-appointed attorneys must hire their own.

The Court reserves the right to examine the documents comprising the investigation of the defendant's indigence, but requires only the filing of the prescribed form of the Ohio Public Defenders Office in the Court's file regarding the individual defendant.

The judge of the particular session, in the absence of court 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 the court appointed counsel to meet defendant at the Scioto County Jail;
- (3) Conduct a preliminary hearing and set bail;
- (4) Generate and file an appropriate journal entry recording for the foregoing acts;
- (5) Generate and file an appropriate journal entry recording for the foregoing acts.

In all subsequent proceedings the designated counsel shall be treated and be responsible as though private retained.

RULE NO. 36 **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 NO. 37
Waiver of Jury

Once a written demand for jury has been filed, any subsequent waiver of the 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 NO. 38
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 NO. 39
Subpoenas

It is the responsibility of the complaining party to see that subpoenas for prosecution witnesses are properly requested. Where the complaining party is not a law enforcement officer, then the Law Director (City Solicitor) shall file a proper and timely praecipe.

Once subpoenas are issued, the Law Director (City Solicitor) or his assistants determine whether service has been obtained for the purpose of assuring service before trial or hearing date. All praecipes for witnesses shall, unless the case is set for trial less than three (3) days in advance, be filed not less than three (3) days prior to trial date.

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 praecipes for witnesses shall, unless the case is set for trial less than three (3) days in advance, be filed not less than three (3) weeks prior to trial date.

RULE NO. 40
Modification of Driver's License Suspension

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

1. The reason for the application;
2. The distance from home to the place of employment;
3. The hours of beginning and ending of work for each day requested and the days of the week worked;
4. If the request for driving privileges during hours of employment, a statement of whether employment will be terminated if the request is not granted; and
5. The appropriate filing fee.

The application shall be accompanied by a liability insurance policy or bond which is personal to the defendant.

Mandatory suspensions required by Section 4507.16 of the Ohio Revised Code shall not be modified for the first thirty day period of such suspension.

RULE NO. 41 Modification of Sentences

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

RULE NO. 42 Collection of Fines

In order that this Court may properly administer Section 2947.14 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.

RULE NO. 43
Caseflow Management in Criminal Cases

- A. 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.

These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the Court justice system.

- B. Scheduling of Events: The scheduling begins after arraignment. Thereafter, the case is managed in three (3) judicial steps.
1. Pretrials: After arraignment, all jailable misdemeanors wherein the defendant is represented by a defense counsel shall be set for pretrial by the Assignment Commissioner within thirty (30) days save 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 Judge orders a pretrial in said case. If the parties cannot resolve the case, then the case should be set for trial to the Court unless a jury is demanded.
 2. 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. All motions shall be set for oral hearing.
 3. Trials: Each case not resolved at pretrial shall be set for a trial to the Court if not already set. If a jury demand is timely filed, then the case will be moved to the jury trial schedule, if not already set. All defense counsel having filed jury demands (or in serious misdemeanors) shall notify the Court by 4:00 p.m. of the eighth (8th) day preceding their trial of any change in plea, or jury demand status by a jury waiver in writing by the defendant or jury costs will be attached to their case.
 - (a) Continuances: No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reason for the continuance. Rule II-17 (D)(4) shall apply as though fully restated here regarding the requirements for a valid continuance motion.

- C. Outstanding Warrants.

In the interest of judicial economy, the Clerk of Courts shall cause to be recalled all outstanding misdemeanor warrants that are more than three (3) years old wherein service has not been had on the defendant(s).

RULE NO. 44
Jury Management Plan - Introduction

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18(C), which requires that each municipal court, prior to July 1, 1994, develop and implement a jury management plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Portsmouth Municipal Court.

RULE NO. 45
Jury Eligibility

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

1. Persons less than 18 years of age.
2. Persons who are not residents of Scioto County.

All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

RULE NO. 46
Procedure for Jury Selection

Potential jurors shall be drawn from a jury source list, which shall constitute a list of persons having a driver's license in Scioto County, by the use of random selection procedures using automated data processing equipment in conformity with ORC 2313.06 and ORC 2313.21.

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 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.

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.

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 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 consequences of his failure to respond. 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 NO. 47
Summoning of Prospective Jurors

Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases a jury deposit of Eight Hundred Seventy-Five Dollars (\$875.00) 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.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of thirty-five (35) persons per trial shall be summoned for service unless the Court determines that a lessor 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.

Persons summoned for jury service shall receive compensation as follows:

Twenty-Five Dollars (\$25.00).

Such fee shall be promptly paid from the city or county treasury, as appropriate.

Any juror wishing to waive 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 day or the completion of one trial, whichever is longer. After completion of such service, the juror may be excused, if request for excuse is received by the Court.

RULE NO. 48

Exemption, Excuse and Deferral from Jury Duty

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 them 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 documentation. These documents shall be retained by the Court.

The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from 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 for whom it may be readily determined is unfit for jury service.
6. Any person for whom it is readily apparent would be unable to perform their duty as a juror.
7. Other valid excuse.

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 NO. 49
Examination of Prospective Jurors

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.

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 or possible instructions.
2. Counsel may not ask jurors to base answers on hypothetical questions.
3. Counsel may not argue the case while questioning jurors.
4. Counsel may not engage in efforts to indoctrinate jurors.
5. Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.
6. Questions are to be asked collectively of the panel whenever possible.
7. Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event 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 on 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 forth additional cause challenges which may be made against potential jurors.

Peremptory 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. Unless otherwise agreed, 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 Rules of Civil and Criminal Procedure.

Challenges to the jury array shall be made in accordance with established rules of procedure.

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, additional alternate jurors may be selected.

RULE NO. 50 **Jury Orientation**

Jurors shall report for service no later than 9:00 a.m., unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the Court before the completion of orientation. No motions shall be entertained by the Court the day of the trial, except those which the Court must consider by law or by rule of procedure.

Prospective jurors shall be provided with oral orientation upon their initial appearance and prior to service. The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures of the Court, along with other basic and relevant legal principals.

Upon the completion of the case and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations. In accordance with the Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury.

Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned court personnel and shall direct any questions or communications to such court personnel for appropriate action.

All communications between the judge and the members of the jury panel, from the time of reporting to the Court to the time of dismissal, shall be committed to writing or placed on the record in open court. Counsel for each party shall be informed of any communications, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witness, have any contact with jurors until such jurors have been dismissed.

All jury deliberations shall be conducted in the jury deliberation room. Jury deliberations rooms shall include space furnishings and facilities conducive to reach a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize contact between jurors, parties, counsel and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be permitted to leave the Court without permission.

Deliberations shall not continue after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice. Jurors shall be consulted prior to any decision.

If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown, the Court finds that sequestration is necessary. If a jury is sequestered, the Court shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.

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

The Court shall evaluate the performance of this jury management plan to determine the representativeness of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the costs effectiveness of this plan, and overall juror satisfaction.

RULE NO. 51
Use of Electronically Produced Tickets

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Portsmouth Municipal Court. A ticket produced by computer or other electronic means shall not require the signature of the defendant. A ticket produced by computer or other electronic means shall conform in all substantive respects to the “Ohio Uniform Traffic Ticket”. The provisions of Traffic Rule (3) (B) relative to the color and weight of paper, size, and method of binding shall not be applicable to a ticket that is produced by computer or other electronic means. The ticket paper shall be of sufficient quality to allow the court record copy to remain unchanged for the period of the retention schedule for the various traffic offenses as prescribed by Rule 26.05 of the Rules of superintendence for the Courts of Ohio. The court record of the ticket shall be filed with the court or may be filed electronically as authorized by this rule.

The Portsmouth Municipal Court hereby authorizes the filing of a ticket by electronic means. If a ticket is issued at the scene of an alleged offense, the issuing officer shall serve the defendant’s paper copy of the ticket as required by Traffic Rule (3) (E).

A law enforcement officer who files a ticket pursuant to this local rule, and Ohio Traffic Rule 3(F) (1) and (F) (2) electronically affixes the officer’s signature thereto, shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with all other tickets issued pursuant to the Traffic Rules.

RULE NO. 52

E-FILING

1. E-FILING

- i) NOTICE: May 1, 2024, ALL CIVIL/TRAFFIC/CRIMINAL FILINGS, SUBMITTED BY AN ATTORNEY SHALL BE TRANSMITTED TO THE COURT VIA THE COURT'S WEBSITE. PRE-REGISTRATION FOR WEB PORTAL ACCESS IS REQUIRED AND IS AVAILABLE AT WWW.PMCOURT.ORG.

2. E-filing –

A) Effective May 1, 2024 the Court shall no longer accept fax filings, email filings, filings by mail or filings personally presented at court by an attorney on CIVIL/TRAFFIC/CRIMINAL cases. All filings submitted by an attorney shall be required to be submitted to the Court via the Court's E-Filing web portal only.

B) A document filed by fax or email shall be accepted as the effective original filing. The person making a fax or email filing need not file any source document with the Clerk of Court but must, however, maintain in his/her records and have available for production on request by the court the source document filed by fax or email, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

C) The source document filed by fax or email shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

3. ELECTRONIC FILING POLICY 1.

A) In conformity with Ohio Revised Code, Ohio Civil Rule 5(E) and Criminal Rule 12(B) and, as approved (provisionally) by the Ohio Supreme Court on Technology and the Courts, complaints, pleadings and other documents may be filed with the Clerk of Court electronically via the Internet, subject to the provisions in this rule.

B) Application of Rules and Orders – Unless otherwise modified by approved stipulation or Court order, ALL Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the Court shall continue to apply to all documents electronically filed.

C) Accepted Filings:

i) All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or, by a party not represented by an attorney.

ii) Any signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all practical purposes.

iii) If it is established that the documents were transmitted without authority, upon motion, the court shall order the document stricken.

iv) No attorney shall authorize any person to electronically file on that attorney's behalf, other than his or her employee or a service provider retained to assist in electronic filing.

v) The electronic filing of a document by an attorney, or by another under the authorization of the attorney, or by a party not represented by an attorney shall constitute a signature of that attorney or party under Ohio Civil Rule 11. No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.

4. Account Assignment

i) Upon receipt of a properly executed and signed User Agreement Form, the Clerk of Court shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing document. NOTE: Third party electronic filing providers are not acceptable.

ii) For each electronic document filed, the filer shall submit a Cover Page NOTE: Cover Page Format is available from the Clerk of Court's Office.

5. Hours of Operation

A) The Clerk of Court shall receive electronic documents 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open.

B) A document will be deemed timely when filed prior to 4:00 p.m. the afternoon of the due date, unless the assigned judge has ordered the

document filed by a different time /date. Time at the Court (Eastern Standard/Daylight Savings) governs, rather than the time zone from which the filing is made. SEE RULE 1.16.1 H. TIME OF FILING

C) All electronically filed documents shall receive a confirmation date and time acknowledgement.

D) Document Format. Documents must be submitted in PDF or DOC formats. OTHER FORMATS CAN BE CONVERTED TO PDF. CONTACT THE COURT FOR INFORMATION Note: Image types [such as jpg, tiff and BPM] can be embedded within PDF or DOC formats.

6. Fees

A) The Clerk of Court shall assess normal filing fees and case payments will be collected via user credit card at the time the filing is processed. Pursuant to §301.28(E) and (F) of the Ohio Revised Code, a surcharge for credit card use may be assessed in an amount to be determined by the Clerk of Court.

B) No personal checks will be accepted.

C) The Clerk's Office will document the receipt of fees on the docket with a text-only entry.

D) The Court shall not maintain electronic billing or debit accounts for lawyers or law firms.

7. Filing Acceptance or Rejection Cycle

A) A confirmation number will be assigned to each filing when it is received in its entirety by the Clerk of Court's receiving device.

B) The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing.

C) Upon successful processing of the filing by the Clerk of Court, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer.

D) Filers will be notified via electronic mail if the filing is rejected for any reason.

E) A rejected filing may be resubmitted to the Clerk of Court in order to retain the original date and time of filing.

F) Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Court within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Court in order to retain the original date and time of filing and confirmation number.

G) A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hour period expires, this filing will be considered a new filing and the prior confirmation number will have expired.

H) If a document is rejected due to technical errors and the filer wishes to have the corrective filing relate back to the date and time of the rejected filing, the filer must file a motion with the Court seeking relief.

I. The Clerk of Court shall retain the rejected documents for a period of one year from the date of transmission. j. Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with the Clerk of Court as a result.

8. Electronic File Stamping

A) Upon successful completion of acceptance processing by the Clerk of Court, a document filed electronically will be electronically file stamped.

B) This stamp will include the date and time that the receiving device of the Clerk of Court received the entire transmission as well as the case number of the filing.

C) Upon recognition of a processing error, the Clerk's Office will contact the filer to remediate the issue.

D) After a document is electronically file stamped, the document cannot be altered once it has been accepted into the system.

9. Public Method of Access to Electronically Filed Public Documents

A) Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper via the Clerk of Court's website at <http://www.pmccourt.org>.

B) Public access to electronically filed public documents will be available via the internet web site of the Clerk of Court as soon as the Clerk has processed the document.

C) If the internet website is unavailable or is not provided by the Clerk of Court or if the Clerk of Court is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available for review at the office of the Clerk of Court, either by computer terminal or in paper form in the case file.

D) If, however, a document or case record is sealed or expunged, it is unavailable for public disclosure.

10. Service of Documents:

Documents filed electronically with the Clerk of Court shall be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49. b. Once a party has entered an appearance in the case, the party shall furnish his or her email address, and service thereafter shall be electronically, where possible.

11. Attachments and Exhibits

A) Attachments and exhibits are to be filed electronically.

B) Large attachments or exhibits over 30 megabytes cannot be filed electronically and must be submitted in hard copy and served on all other parties.

12. Signatures

A) If an original document requires a signature of a non-attorney, the filing party or the Clerk's Office shall scan the original document and, then electronically file it on the System.

B) A pleading or other document requiring an attorney's signature shall be signed in the following manner if filed electronically: “/(attorney name)/.” The correct format for an attorney signature is as follows: • /Ohio Attorney/ • attorney's name (typed) • Ohio Supreme Court Number •

Attorney for (Plaintiff/Defendant) • Address • Telephone Number •
Facsimile Number • Email Address

C) For documents containing multiple signatures, such as stipulations or documents requiring two or more signatures, the following procedure applies: (1) The filing party or attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document.

13. RULE 1.21 COURT RECORDS MANAGEMENT AND RETENTION

Pursuant to the Ohio Rules of Court, Rules of Superintendence for the Courts of Ohio, Rule 26 (C) and (D), all Portsmouth Municipal Court case records filed after January 1, 2015, will be retained in electronic media format, including text and digital images, as an alternative to a paper record. The Clerk of Court will provide the computer hardware and software equipment necessary to allow for inspection and copying of public records, including public records that are maintained, recorded, copied or preserved by an electronic records and information management process in accordance with division (D)(2) of Rule 26. Paper media may be destroyed after it is imaged and saved to the electronic case record in accordance with division (D) of Rule 26. Audio records of courtroom proceedings shall be kept for a period of five (5) years.

Appendix A: Portsmouth Municipal Court Traffic/Criminal Court costs

IN THE PORTSMOUTH MUNICIPAL COURT
Portsmouth, Ohio

IN THE MATTER OF:

Schedule of Costs – Traffic and
Criminal Division

JOURNAL ENTRY

.....

It is hereby ORDERED that the following schedule of Traffic/Criminal Court costs shall be adopted and incorporated as a portion of the Local Rules of the Portsmouth Municipal Court effective May 1, 2022:

	Local	HB 562	Victims of Crime	Computer Fund	Special Projects	Probation Fund	<u>TOTAL</u>
Traffic Minor Misdemeanor	\$20.00	\$30.00	\$9.00	\$3.00	\$27.00	\$21.00	<u>\$110.00</u>
Reckless Operation (Minor Misdemeanor)	\$53.00	\$30.00	\$9.00	\$3.00	\$24.00	\$21.00	<u>\$124.00</u>
Traffic, All Other	\$53.00	\$30.00	\$9.00	\$3.00	\$24.00	\$21.00	<u>\$124.00</u>
Criminal, All	\$53.00	\$30.00	\$9.00	\$3.00	\$24.00	\$21.00	<u>\$114.00</u>

It is so ORDERED.

Russell D. Kegley
Administrative Judge

Steven L. Mowery
Individual Judge

Appendix B: Schedule of Costs-Civil Division

IN THE MUNICIPAL COURT OF PORTSMOUTH, OHIO
SCHEDULE OF COSTS – CIVIL DIVISION

EFFECTIVE
SECURITY

May 1, 2022

ACTUAL

	<u>COST</u>	<u>DEPOSIT</u>
<u>Complaint (one defendant plus certified mail)</u>		\$135.00
- each additional defendant by certified mail.....	7.00	
- re-issuance by certified mail.....	7.00	
- request for restricted mail, each defendant.....	0.00*	
- no charge for ordinary mail service.....	----	
- personal service by Bailiff.....	20.00	
<u>Amended Complaint</u>		35.00
- certified mail service, 1 defendant.....	7.00	
- each additional defendant by certified mail.....	7.00	
- re-issuance by certified mail.....	7.00	
- request for restricted mail, each defendant.....	0.00*	
- no charge of ordinary mail service.....	----	
- personal service by Bailiff.....	20.00	
<u>Alias Summons</u>		25.00
- each additional defendant by certified mail.....	7.00	
- personal service by Bailiff.....	20.00	
<u>Counterclaim, Cross-Claim, Third Party Complaint</u>		35.00
- certified mail service, 1 defendant.....	7.00	
- each additional defendant by certified mail.....	7.00	
- re-issuance by certified mail.....	7.00	
- no charge for ordinary mail service.....	----	
- personal service by Bailiff.....	20.00	
<u>Attachment</u>		35.00
- appraiser's fee.....	20.00	
- storage and/or towing fees.....		
\$100.00		
<u>Replevin (one defendant)</u>		100.00
- writ of replevin.....	20.00	
- hearing on possession.....	---	

*PLEASE CALL YOUR LOCAL POST OFFICE FOR THE RESTRICTED MAIL RATE.

SECURITY

ACTUAL

<u>DEPOSIT</u>	<u>COST</u>	
<u>Execution</u>	30.00	
- storage and/or towing fees.....		100.00
- order of sale.....	10.00	
- notice of sale publication.....		175.00
 <u>Forcible Entry & Detainer</u>	 135.00	
- service by Bailiff, regular mail, certified included....	----	
- writ of restitution.....	20.00	
 Bureau of Motor Vehicles Appeals		
- Out of state D.U.I.	125.00	
 <u>Small Claim</u>	 95.00	
- includes certified mail for 1 defendant		
- each additional defendant by certified mail.....	7.00	
- Bailiff service.....	20.00	
 <u>Small Claim Counterclaim</u>	 47.00	
- includes certified mail for 1 defendant		
- each additional defendant by certified mail.....	7.00	
- Bailiff service.....	20.00	
 <u>Wage Garnishment</u>	 105.00	
 <u>Bank Garnishment</u>	 105.00	
- check or money order made payable to bank.....	1.00	
 <u>Notice by Publication</u>		325.00
- costs are actual expenses of publication		
 <u>Jury Demand</u>		875.00
- due at time of filing demand or no later than 5 business days prior to pre-trial date		
 <u>Judgment Debtor Examination</u>	 50.00	
- includes Bailiff service		
- for certified mail each defendant.....	7.00	

	<u>ACTUAL COST</u>	<u>SECURITY DEPOSIT</u>
<u>Subpoena</u>	17.00	
- paid to witness (must file 72 hrs. prior to hearing date)		
- Bailiff service, each witness	5.00	
<u>Subpoena Duces Tecum</u>	20.00	
- paid to witness (must file 72 hrs. prior to hearing date)		
- Bailiff service, each witness	10.00	
<u>Certificate of Judgment</u>	10.00	
- for purposes of lien attachment/transfer		
<u>Certificate of Judgment to BMV</u>	17.00	
<u>Transfer of Judgment to this Court</u>	75.00	
<u>Transfer of Case to Another Court</u>	30.00	
- plus filing fee required in transferred Court if individual does not file themselves		
<u>Motion to Vacate, Modify or Revive Judgment</u>	35.00	
- certified mail service, 1 defendant.....	7.00	
- each additional defendant by certified mail	7.00	
<u>Motion to Transfer Small Claim to regular Civil Docket (non-refundable)</u>	50.00	
<u>Notice of Appeal</u>	125.00	
- payment of filing of appeal with Clerk of Court		
- transcript request to Court Reporter- requesting party		
<u>Landlord-Tenant Rent Escrow Actions</u>		
(no charge for filing/must deposit rental amount)		
<u>Sheriff Service, Must contact Sheriff Department (740)355-8261</u>		

<u>Exemplified copy</u>	5.00
<u>Trusteeship</u>	20.00
- 25% of gross income after deduction of normal taxes	
<u>Certification & Authentication of Court Records</u> ...	1.00
- each sheet	
<u>Computer Printout</u>50
- per page	
<u>Bank Returned Checks</u>	20.00

It is hereby ORDERED this schedule of Civil Court Costs shall be adopted and incorporated as a portion of the Portsmouth Municipal Court Local Rules.

RUSSELL D. KEGLEY
Administrative Judge

STEVEN L. MOWERY
Individual Judge