

**BOWLING GREEN MUNICIPAL COURT**

**LOCAL RULES OF PRACTICE**

**2013**

**TABLE OF CONTENTS**  
**OF**  
**RULES OF LOCAL PRACTICE**

**SECTION I-GENERAL RULES**

Rule 1:	Scope and Effective Date
Rule 2:	Day and Time of Sessions
Rule 3:	Use of Abbreviations and Identifiers
Rule 4:	Designations of Trial Counsel
Rule 5:	Withdrawal of Trial Counsel
Rule 6:	Unauthorized Practice of Law
Rule 7:	Pleadings
Rule 8:	Filings by Electronic Transmission
Rule 9:	Exhibits
Rule 10:	Continuances
Rule 11:	Motion Practices
Rule 12:	Entries
Rule 13:	Deposits for Costs
Rule 14:	Court Costs and Fees
Rule 15:	Jury Demands and Waivers
Rule 16:	Juries
Rule 17:	Trial Brief and Proposed Jury Instructions
Rule 18:	Views
Rule 19:	Court Reporter-Recorder of all Proceedings
Rule 20:	Particular Sessions
Rule 21:	Acting Judges and Magistrate
Rule 22:	Court Record Retention
Rule 23:	Conduct in Facility
Rule 24:	Courthouse Security

- Rule 25: Supreme Court Filing
- Rule 26: Publication of Local Rules

## **SECTION II-CIVIL RULES**

- Rule 27: Case Management
- Rule 28: Discovery
- Rule 29: Civil Pretrial
- Rule 30: Default Judgment
- Rule 31: Findings of Fact and Conclusions of Law

## **SECTION III-SPECIAL CIVIL PROCEEDINGS**

- Rule 32 Time Limits: Applicability of Civil Rules
- Rule 33: Forcible Entry and Detainer
- Rule 34: Rent Escrow
- Rule 35: Small Claims
- Rule 36: Garnishment Proceedings
- Rule 37: Replevin
- Rule 38: Trusteeship
- Rule 39: Judgments Upon Warrant of Attorney to Confess

## **SECTION IV-CRIMINAL RULES**

- Rule 40: Case Management-Arrestment
- Rule 41: Jury Demands
- Rule 42: Appeals/Transfers from Mayor's Court
- Rule 43: Case Management-Plea or Trial Setting/Pretrial Conference
- Rule 44: Case Management-Trials, Motions
- Rule 45: Appointment of Counsel for Indigent Defendant
- Rule 46: Violations Bureau

## **SECTION V-SPECIAL CRIMINAL PROCEEDINGS**

- Rule 47: Case Management-Special Criminal Proceedings
- Rule 48: Jury Use and Management

Rule 49: Specialized Docket for Multiple OVI Offenders

APPENDIX

Appendix A: Form Entries and Abbreviations

Appendix B: Designation of Trial Attorney (Form CR1)

Appendix C: Schedule of Deposits and Schedule of Costs

Appendix D: Classification Form

Appendix E: Entry of Not Guilty Plea; Jury Demand (Form CR 2)

## **RULE 1**

### **SCOPE AND EFFECTIVE DATE**

These rules are adopted as Local Rules of Court governing practice and procedure in the Bowling Green Municipal Court. They are adopted pursuant to the Court's inherent authority as set forth in the Rules of Civil and Criminal Procedure and Rules of Superintendence. These rules may be cited as "B.G.M.C. Rule ( )". They are effective as of January 1, 2011 (or as later amended) and shall govern all proceedings filed subsequent to that date.

These rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings, functions and services of this Court; to provide equity and simplicity in procedure; to avoid technical and unjustifiable delays; and to secure just and expeditious determination of all actions and proceedings in this Court. These Local Rules and any amendments thereto, to the extent they are not in conflict with rules promulgated by the Supreme Court, shall govern practice and procedure in this Court.

## **RULE 2**

### **DAY AND TIME OF SESSION**

The sessions of the Bowling Green County Municipal Court shall be from 8:30 a.m. until 12:00 noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday. The offices of the Court shall be open during the same hours. The offices of the Clerk of Court shall be open 8:00 a.m. until 4:30 p.m. Monday through Friday.

These hours may be extended or reduced by order of the Court to accommodate special circumstances in the discretion of the Court, or as circumstances require.

## **RULE 3**

### **USE OF ABBREVIATIONS AND IDENTIFIERS**

The Court adopts abbreviations and/or symbols that may be used in entries, and special identifiers that shall be used in cases with multiple counts or charges, as identified in Appendix A.

## **RULE 4**

## **DESIGNATION OF TRIAL COUNSEL**

Attorneys shall designate their capacity as trial counsel on all documents in civil and criminal and traffic cases and shall include their office address, telephone number, and individual Supreme Court registration number.

The designation of a trial attorney in a criminal-traffic case shall be made on Form CR1 included as Appendix B. One copy of the designation form must be filed per case number.

No designation of a law firm or governmental agency will be acceptable as trial counsel. However, substitution of counsel within the same law firm or agency may be authorized by the judge.

## **RULE 5**

### **WITHDRAWAL OF TRIAL COUNSEL**

Counsel shall be allowed to withdraw from trial counsel responsibility with the consent of the assigned judge. No such application will be considered unless written motion is presented stating the reasons for the application and the time and date of trial and other hearings, together with certification of notice on all parties, including the affected client. An entry, upon hearing had, must then be placed of record in the matter and journalized. It is the responsibility of the withdrawing counsel to mail a copy of the entry to the client at his/her known address.

## **RULE 6**

### **UNAUTHORIZED PRACTICE OF LAW**

No person, not a party in interest, will be permitted to file, conduct or defend any action or proceeding in the Bowling Green Municipal Court with the following exceptions:

1. An attorney who has been admitted to the Bar by the Supreme Court, in compliance with its prescribed and published rules, may file, conduct or defend any action or proceeding in this Court, provided that the attorney must include his/her attorney registration number issued by the Supreme Court of Ohio on all documents filed with the Court. An attorney, admitted to the Bar of another state may be allowed to appear as an attorney in a case on a pro hac vice basis, provided the attorney has complied with Gov. Bar. R. XII.
2. A corporation may, through bona fide officer or salaried employee, file and present its claim or defense in a small claim action based on a contract to which the corporation is an

original party or any other claim to which the corporation is an original claimant, provided such corporation does not, in the absence of representation by an attorney-at-law, engage in cross-examination, argument, or other acts of advocacy.

3. Any party violating this rule will be subject to having his/her action dismissed or continued pending full compliance with this rule.

## **RULE 7 PLEADINGS**

All pleadings filed in this Court shall be on a 8 ½" X 11" paper without cover or backing. All pleadings, motions and other papers filed in an action shall bear the case number, the name of the Judge, and the name, address and telephone number of the attorney, or other person filing the same. Other than the original complaint, every pleading, motion, or other paper filed with the Clerk shall contain a certification of service on the other parties to the action. In every proceeding where there is an attorney of record, the service shall be made upon the attorney.

## **RULE 8 FILINGS BY ELECTRONIC TRANSMISSION**

Pleadings and other papers may be filed with the Clerk of Court by facsimile transmission to 419-352-9407 for criminal, traffic filings, and civil filings.

### **A. APPLICABILITY**

(1) These rules apply to all civil, small claims, criminal, and traffic proceedings in the Bowling Green County Municipal Court.

(2) The following documents will not be accepted for fax filing: the original complaint and any pre or post judgment pleading that requires a filing fee.

### **B. DEFINITIONS**

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

(2) A "facsimile machine" means a machine that can send and receive a facsimile

transmission.

(3) “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

### **C. ORIGINAL FILING**

(1) A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the Court the source document filed by fax, 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.

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

### **D. COVER PAGE**

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

- (a) the name of the court;
- (b) the title of the case;
- (c) the case number;
- (d) the assigned judge;
- (e) the title of the document being filed;
- (f) the date of the transmission;
- (g) the transmitting fax number;
- (h) an indication of the number of pages included in the transmission, including the

cover page;

(i) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and

(j) if applicable, a statement explaining how costs are being submitted.

(2) If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:

- (a) enter the document in the Case Docket and file the document; or
- (b) deposit the document in a file of failed faxed documents with a notation of the



reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Court.

(3) The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

#### **E. SIGNATURE**

(1) A party who wishes to file a signed source document by fax shall either:

(a) fax a copy of the signed source document; or

(b) fax a copy of the document without the signature but with the notation “/s/”

followed by the name of the signing person where the signature appears in the signed source document.

(2) A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

#### **F. EXHIBITS**

(1) Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

(2) Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

#### **G. TIME OF FILING**

(1) Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Court as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.

(2) Fax filings may NOT be sent directly to the court for filing but may only be transmitted

directly through the facsimile equipment operated by the Clerk of Court.

(3) The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

(4) The risks of transmitting a document by fax to the Clerk of Court shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

#### **H. FEES AND COSTS**

(1) No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees will not be filed.

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

#### **I. LENGTH OF DOCUMENT**

Facsimile filings shall not exceed fifteen (15) pages in length. The filer shall not transmit service copies by facsimile.

#### **J. EFFECTIVE DATE**

This local rule shall be effective January 1, 2011, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

### **RULE 9**

#### **EXHIBITS**

All evidence of a tangible nature to be offered at trial shall be:

1. Marked sequentially in a numerical fashion and identified as "Plaintiff's" or "Defendant's" exhibit;
2. Shall be prepared in numbers sufficient to provide one copy each for the Court, the witness and each attorney;
3. Shall be available at the time the trial commences. It is the responsibility of the Court's bailiff to accept such evidence on behalf of the Court and to transmit it to the Clerk of Court to store and safeguard such evidence for the purpose of maintaining the record of the particular case.

**RULE 10**  
**CONTINUANCES**

Except by leave of Court, upon good cause shown, every request for continuance shall be by written motion and be granted upon showing of good cause. All requests shall be served on the opposing parties or counsel by the moving party. The motion shall set forth a date from which a continuance is requested and the reason for the continuance. No request for continuance will be granted if made less than seven (7) days prior to trial, except upon a showing of hardship, unforeseen circumstances, or unavoidable conditions.

Any praecipe for subpoena or order designating a person to serve a subpoena shall be filed with the Clerk not later than seven (7) days before the date of trial. If a witness fails to appear at a trial and the filing for such service was made less than seven (7) days before trial, then such non-appearance shall not constitute a ground for continuance. The application for continuance on the grounds of unavailability of a particular witness shall be made as soon as a party is informed of that fact.

If a continuance is requested in a civil case on the grounds of the absence of a witness or the unavailability of the witness at the time set for trial, the attorney requesting such continuance shall, by affidavit or written professional statement, give the substance of what he/she expects the witness would testify to; and if the opposing party agrees that such witness would testify to those facts, the party requesting the continuance shall reduce such statement to writing and such statement may be given in the trial of the case as a statement with the stipulation that the witness, if called to testify, would testify to those particular facts. If this is agreed to, the trial may proceed as scheduled except where the Court orders otherwise.

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 set first for trial shall have priority and shall be tried on the date assigned. If a prior trial conflict exists, the date of scheduling shall be stated in the motion, with a copy of the notice in the other case attached to the motion. Criminal cases shall have priority over civil cases.

The granting of any other request for continuance shall be a matter within the discretion of the trial court. Consent of opposing parties or counsel shall not, in and of itself, constitute good

cause. No continuance shall be granted without first setting a definite date of trial or hearing. An entry shall accompany a motion for continuance with signature of opposing counsel if agreed upon. Counsel shall provide to the Assignment Commissioner upon filing of a motion for continuance a list of available dates. Any date included in the entry shall be approved first with the Assignment Commissioner.

Prior to filing with the Clerk, a copy of a signed entry of continuance shall be given to the Assignment Commissioner who shall notify all parties and counsel of the new trial date. Upon request of the Assignment Commissioner, the moving parties shall promptly notify opposing counsel, unrepresented parties, and in criminal traffic cases, the arresting officer or complainant of the granting of the continuance.

If a designated trial attorney has such a number of cases assigned for trial in this Court 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, and the judge shall remove him as counsel in the case. If the trial attorney was appointed by the Court, the Court shall appoint a substitute trial attorney.

## **RULE 11**

### **MOTION PRACTICE**

All motions, except those normally made at a trial, shall be in writing, served on opposing counsel, and made within the applicable time limits. A motion shall state with particularity the grounds for the motion and shall be supported by a memorandum of law containing applicable statutory and case law citations. Copies of unreported cases cited in a memorandum shall be attached thereto.

All motions for a definite statement and all motions to strike shall set out the language, in full, sought to be stricken or claimed to be indefinite. In a motion to suppress, the items of evidence in question shall be specified.

Motions interposed under Civil Rules 37, 41(B)(1), 42, 50(B), 56(C), 59, and 65(A), and pretrial motions timely filed under the Criminal and Traffic rules, shall be scheduled for hearing before the Court. An attorney filing such a motion shall obtain a date for hearing from the Assignment Commissioner, and shall promptly notify the other parties to the action, or their respective attorneys of record, in writing, of the date and time of the hearing and file proof of the same with the Clerk. Motions filed pursuant to Civil Rule 56(C) shall be heard without oral

argument unless a party requests an oral hearing.

All other motions will not be set for hearing except as required by law, or as the Court, in its discretion, orders. A party desiring an oral hearing shall request the same in a clearly identifiable portion of a motion or a response to a motion and shall indicate the amount of time required for the hearing.

A party filing a motion, not required to be scheduled for hearing pursuant to this Rule, shall submit a proposed entry at the time of filing of the motion. All other entries shall be submitted in accordance with Rule 12.

Parties wishing to respond to a motion shall do so no later than fourteen (14) days following service of the motion or three (3) days prior to the oral hearing date, if one is scheduled, whichever is earlier. When a motion is set for hearing, the Court shall advise the parties to the action of the date and time of the hearing.

Any motion not filed in compliance with this Rule may be summarily dismissed.

## **RULE 12**

### **ENTRIES**

Except as to matters in which the Court prepares a proper entry of its own, or when counsel has presented an entry for submission to the Court at the time of hearing, counsel for the party in whose favor an order, decree or judgment is rendered shall, with fourteen (14) days thereafter, prepare a judgment entry expressive of such order, decree or judgment. Said counsel shall serve the proposed judgment entry on other counsel of record, and unrepresented parties who have appeared in the action, with a notice to them that the proposed entry will be submitted to the Court for signature after ten (10) days, that they may sign and return the entry, or alternatively may serve and file an alternative entry, within that time period.

Counsel for the party in whose favor an order, decree or judgment is rendered shall submit, within the ten (10) day period or soon thereafter, the proposed entry to the Court, either signed by all parties or with a certification of service on counsel and/or parties for whom service is required. An alternative entry submitted by any counsel and/or party must also contain a certification of service on all other counsel of record and unrepresented parties who have appeared in the action.

The Court shall approve and sign either the proposed or an alternative entry if, in the Court's determination, it comports with the Court's decision. If no entry is submitted which is determined to comport with the Court's decision, the Court shall direct the Clerk to notify all counsel of record, and all unrepresented parties who have appeared in the action, to appear before the Court on a specified date for settlement of the matter.

All judgment entries shall contain an appropriate caption and the judge to whom the case has been assigned.

In the event of non-compliance with this Rule, the Court may make such further orders in the case as may appear proper or are required by law.

Nothing in this rule shall prohibit the Court from putting on its own judgment and/or journal entry. In the event that the Court does so, the Clerk of Court shall notify all attorneys and/or parties appearing pro se of the Court entry and date that it was journalized.

### **RULE 13**

#### **DEPOSITS FOR COSTS**

Unless waived by this Rule, no civil action or proceeding shall be accepted for filing by the Clerk of the Court unless there is deposited a sum of money set forth in the Schedule of Deposits as appended to these Rules (Appendix "C") and as amended from time to time by this Court. A copy of such schedule shall be made available by request to the Clerk of the Court. The Clerk may, in a case where the deposit of costs is insufficient, require additional security if deemed necessary.

In the event that a party wishing to file an action in this Court is indigent, the party or his counsel shall file an Affidavit of Indigency. The Clerk shall submit such affidavit to a judge for review before accepting any pleadings for the filing. Upon finding that such indigency does exist, the deposit by that party shall be waived.

Where a jury demand has been filed in a civil case, the demanding party shall make an advance deposit of \$750.00 at least five weeks (35 days) prior to the trial date. When a party filing a jury demand fails to make the required deposit within the time allowed, the Clerk shall notify the other parties of this fact, and any other party may make the required deposit within seven (7) days of the date that such notice is provided. For good cause shown, these time limits may be extended by the judge assigned to the case. Failure of the parties to timely comply with these provisions shall

be deemed a waiver of the jury demand.

Notice to the Court of withdrawal of a jury demand shall be made to the Court no later than fourteen (14) days prior to the date of a jury trial. In the event a party or counsel fails to comply with this Rule, or if the case is settled or dismissed prior to trial and notice is not made to the Court at least fourteen (14) days in advance of the commencement of the trial, the requesting party shall bear the costs of juror fees incurred if a panel of jurors appears for service, unless such failure to comply is a result of an extreme emergency or conditions beyond the control of the party or his/her counsel, and such compliance is waived by the Court.

#### **RULE 14**

#### **COURT COSTS AND FEES**

Costs and fees shall be assessed in accordance with the Schedule of Costs as appended to these Rules (Appendix “C”) and as amended from time to time by the Court.

In criminal and traffic cases, if a defendant is charged with more than one offense arising out of the same act or transaction or series of acts or transactions, and one or more but not all of the offenses charged are felonies, the felonies shall be given one case number, the criminal misdemeanors a separate case number, and any traffic offenses a separate case number.

#### **RULE 15**

#### **JURY DEMANDS AND WAIVERS**

A party filing a jury demand shall at the same time file a motion to continue a prior scheduled non-jury hearing of the action and such moving party shall promptly notify all other parties of the filing of the jury demand and request for continuance. A party wishing to withdraw a jury demand in a civil case shall obtain the written consent of the other parties, which shall be filed together with the withdrawal of the jury demand. A party filing a withdrawal of a jury demand shall at the same time file a motion to continue a scheduled jury hearing of the action and shall notify all other parties of the filing of the withdrawal of the jury demand and the request for continuance.

#### **RULE 16**

#### **JURIES**

The selection and manner of summoning persons to serve as jurors in the Court shall occur as set forth in Chapter 2313 of the Revised Code. Jurors shall receive the same compensation as

allowed by the Wood County Court of Common Pleas.

#### **RULE 17**

#### **TRIAL BRIEFS AND PROPOSED JURY INSTRUCTIONS**

In the event the Court determines that the issues in a particular action require it, the Court may require the parties or their counsel to file with the Court trial briefs and/or jury instructions at least five (5) days before a trial is to commence. Counsel for parties shall submit with proposed jury instructions citations of authority for any such instructions.

#### **RULE 18**

#### **VIEWS**

A request for a view by a judge or jury will be made at the time of the pretrial conference. It is within the discretion of the judge whether or not to permit a view.

#### **RULE 19**

#### **COURT REPORTER-RECORDING OF ALL PROCEEDINGS**

The official record of this Court shall be taken by digital recording. If a party desires a court reporter, the party must make their own arrangements for the presence and payment of the court reporter. In the event that such a record is taken, however, it shall not be an official record of the proceedings, nor shall it be represented or certified as such, unless so designated in advance by the judge.

A party appealing a decision of a trial court shall file a praecipe advising the Court what portion(s) of the record he/she wishes transcribed. If the party wishes a typewritten transcript, then the party shall request the Court designate an Official court reporter for the case. The party requesting the transcript shall make payment arrangements with the Court's official court reporter who will certify the typewritten transcript. Subject to prior certification by the Court, a party may make arrangements with another to provide a typewritten transcription.

All digital recordings will be maintained on file for a period of one year. These will be deleted after one year unless an appeal is pending and a request is filed with the Court requesting that the recording tape be maintained for a longer period of time.



**RULE 20**  
**PARTICULAR SESSIONS**

The following matters shall be heard in particular sessions:

1. Criminal arraignment
2. Traffic arraignment
3. Civil matters
4. Small claims
5. Evictions

All particular sessions shall be heard pursuant to an Order of the Administrative Judge of the Bowling Green Municipal Court designating the room location, the days of the week for each, and the item for each. The most current list of particular sessions designating times and locations and days of the week shall be posted in the Clerk's office.

**RULE 21**  
**ACTING JUDGES AND MAGISTRATE**

An acting, substitute or retired judge may be appointed pursuant to Revised Code Section 1901.10 and 1901.12 and Sup. R. 17 .

A Magistrate may be appointed by the Judge and shall have all of the authority and powers set forth in the Rules of Procedures and statutes.

The following matters may be heard by a Magistrate:

1. Proceedings in aid of execution
2. Judgment debtor examinations and J.D. citations
3. Small claims
4. Default hearings
5. Rent escrow proceedings
6. Attachments
7. Forcible entry and detainer actions
8. Replevin actions

9. Traffic minor misdemeanor cases where a defendant waives trial by judge
10. License suspension hearing under 4511.191, 4511.193, and 4510.037
11. Matters specifically assigned by a judge of the Municipal Court
12. Criminal misdemeanor and general civil cases where the parties consent.

All proceedings involving a Magistrate or the objections to a Magistrate's report shall be conducted in accordance with Civil Rule 53. The Court may, from time to time, establish forms for the Magistrate's report on various types of cases which will be appended to these Rules and used by the Magistrate. The Magistrate shall make his/her report within ten (10) business days of the hearing on any matters referred. Upon application to the judge, the time for making a report may be extended for good cause.

When a party asserts as error any of the factual findings of the Magistrate, and a copy of all relevant portions of the transcript is not filed with the objections, a statement shall be included that a transcript was ordered and the approximate date when the transcript will be provided. An affidavit in lieu of a transcript will only be accepted when no audiotape is available of a hearing to allow for the making of a transcript.

## **RULE 22**

### **COURT RECORD RETENTION POLICY PURSUANT TO R.C. 1901.41**

- (A) Pursuant to 1901.41 of the Ohio Revised Code, the Bowling Green Municipal Court hereby adopts the following Local Rule of Court relating to retention and destruction of the Court's records:
1. Civil cases: Civil cases shall be scheduled for destruction following two (2) years after the issuance of an audit report by the Auditor of State.
  2. OVI case files: Operating a Vehicle Under the Influence of Alcohol or Drugs (OVI) case files shall be scheduled for destruction following fifty (50) years after the date of the final order of the Municipal Court.
  3. First through Fourth Degree Traffic and Criminal Case files: Except for OVI case files, first through fourth degree misdemeanor traffic and criminal case files shall be scheduled for destruction after the expiration of five (5) years after the date of the final order of the Municipal

Court or one year (1) after the issuance of an audit report by the Auditor of State, whichever is later.

4. Minor Misdemeanor Traffic and Criminal case files: Minor misdemeanor traffic and criminal case files shall be scheduled for destruction following two (2) years after the final order of the Municipal Court or one (1) year after the issuance of an audit report by the Auditor of State, whichever is later.

5. Search Warrant Records: Search Warrant records shall be indexed and the warrants and returns retained in their original form for five (5) years after the date of service or last service attempt. Thereafter, the records may be scheduled for destruction.

6. Other Criminal Case files: If the case has been finally disposed of for at least five (5) years, but less than fifteen (15) years prior to the adoption of this Local Rule, the Court orders that the file be scheduled for destruction after complying with (B) of this Local Rule.

7. If a case has been finally disposed of for fifteen (15) years or more prior to the adoption of this Local Rule, then the Court orders the file destroyed without having copied or reproduced the file prior to its destruction.

(B) Except as otherwise provided in this Local Rule, all files scheduled for destruction under (A) of this Local Rule shall be copied or reproduced prior to their destruction or disposition in the manner and according to the procedure prescribed in Section 9.01 of the Ohio Revised Code. The copies or reproductions of the file made pursuant to Section 9.01 of the Ohio Revised Code shall be retained and preserved by the Court for a period of ten (ten) years after the destruction of the original files in accordance with this Local Rule after which the copies or reproductions themselves may be destroyed.

Files destroyed or otherwise disposed of under paragraph (A) of this Local Rule that are solely concerned with criminal prosecutions for minor misdemeanor offenses or that are concerned solely with traffic prosecutions do not have to be copied or reproduced in any manner or under any procedure prior to their destruction or disposition as provided in this section.

Files destroyed or otherwise disposed of under paragraph (A)(7) of this Local Rule do not have to be copied or reproduced in any manner or under any procedure prior to their destruction or disposition.

(C) All dockets, indexes, journals, and cash books of the Court shall be retained and preserved

by the Court for at least twenty-five (25) years unless they are reproduced in the manner and according to the procedure prescribed in Section 9.01 of the Ohio Revised Code, in which case the reproductions shall be retained and preserved by the court at least until the expiration of the twenty-five year period for which the originals would have had to have been retained. Court docket, indexes, journals, cash books, and all other court records shall also be subject to destruction or other disposition, under Section 149.39 of the Ohio Revised Code.

(D) Notwithstanding section 149.39 of the Revised Code, the Clerk shall retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court. The documentation shall be in a form admissible as evidence in a criminal proceeding as evidence of a prior conviction or that is readily convertible to or producible in a form that is admissible as evidence in any criminal proceeding of a prior conviction and may be retained in any form authorized by section 9.01 of the Revised Code. The Clerk shall retain this documentation for a period of fifty years after entry of judgment in the case, except that documentation regarding cases solely concerned with minor misdemeanor offenses shall be retained as provided in division (A) and (B) of these rules, and documentation regarding other misdemeanor traffic offenses shall be retained for a period of twenty-five years after the entry of judgment in the case.

### **RULE 23**

#### **CONDUCT IN FACILITY**

No smoking is permitted in the court facilities under any circumstances. No eating or drinking is permitted in a courtroom without the express permission of the judge of the Court.

### **RULE 24**

#### **COURTHOUSE SECURITY**

All persons shall abide by the directives of the Court Security Bailiffs. No person shall enter parking areas marked "Court Employees Only" without prior authorization of any court personnel authorized to permit such entry. No person shall cause any vehicle to sit, stand, idle or park in the drive in front of the west side of the Court building.

## **RULE 25**

### **SUPREME COURT FILING**

In accordance with Rule 83 of the Ohio Rule of Civil Procedure, and Sup.R. 5, these rules of local practice shall be filed with the Supreme Court of the State of Ohio along with any amendments hereto.

## **RULE 26**

### **PUBLICATION OF LOCAL RULES**

The Clerk of Bowling Green Municipal Court shall order production of copies of these rules and amendments made thereto. Such copies shall be made available by the Clerk of Court at the costs of production.

## **CIVIL RULES**

## **RULE 27**

### **CASE MANAGEMENT IN CIVIL CASES**

Sufficient copies of pleadings shall be filed with the Clerk to accomplish service of process, if required.

Summons shall be served in accordance with Ohio Rules of Civil Procedure.

The Clerk of the Bowling Green Municipal Court shall accept service of process methods as outlined in Civil Rule 4.1 which methods shall include “virtual” service of process utilizing advanced postal technology for service by eCertified mail. This advanced postal technology does not modify Civil Rule 4.1(1), but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation utilizing the court’s website to show to whom the mail was delivered, the date of delivery, address where delivered, and the electronic signature of the recipient, all in accordance with the now-existing Civil Rules. All service of process of complaints or other documents served with virtual services of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through this Clerk’s office.

In the event there is a failure of service, the clerk shall notify the party or counsel immediately. If no action is taken within sixty (60) days thereafter, the Clerk shall notify the party

or counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

After any responsive pleading or motion is filed, the Clerk shall immediately forward said pleading or motion and file to the Assignment Commissioner for scheduling and/or submission to the judge for a ruling.

If no action has been taken on a case for a six (6) month period, and the case is not set for trial, then the Clerk shall set the matter for report and notify all parties or their counsel of the report and inform them that their failure to appear may result in a dismissal of the action without prejudice.

When a file has been marked "entry to be submitted" and the entry has not been received within thirty (30) days, then the Clerk shall set the matter for report and notify all parties or their counsel of the report and inform them that their failure to appear may result in a dismissal of the action without prejudice.

## **RULE 28**

### **DISCOVERY**

Interrogatories and requests shall not be filed with the Court except in those cases where informal attempts at discovery are ineffective and it becomes necessary to file a motion to compel discovery under the provisions of Rule 37(A), Ohio Rules of Civil Procedure.

To the extent that discovery could not be obtained through extra-judicial means, a party seeking discovery may proceed with the filing of a motion to compel discovery under Rule 37. The motion shall be accompanied by a supporting memorandum which states the factual and legal basis which would entitle him/her to an order compelling discovery. The motion and memorandum shall also be accompanied by:

1. An affidavit of counsel setting forth what extra-judicial means have been attempted to resolve the differences.
2. A copy of the interrogatories, application, requests, etc. which have previously been served pursuant to the Ohio Rules of Civil Procedure.

No interrogatories, applications or requests shall be filed in the Court except in connection with a motion to compel discovery.

All discovery shall be completed by the date of a formal pretrial conference or as otherwise

ordered, unless good cause is shown.

**RULE 29**  
**CIVIL PRE-TRIALS**

A Pretrial Conference shall be conducted in all civil cases in which an answer is filed, except for forcible entry and detainer actions, small claims and Bureau of Motor Vehicle license suspension appeals, unless waived by the Court. A Pretrial Conference will be scheduled by the Assignment Commissioner within ninety (90) days of completion of the pleadings.

For the purpose of this Rule, a “Pretrial Conference” is defined as a court-supervised conference designed to help produce an amicable settlement; to establish the procedure to be followed in the case; to establish time limits to be observed in the case pertaining to discovery and other matters; to establish procedures to inform the Court as to the law and as to jury instructions; and to limit the issues at trial.

The Court may, in its discretion, conduct a Pretrial Conference by speaker or regular telephone conference provided that every statement is audible to every person. The Court may direct which parties shall pay the cost of long distance telephone calls.

All parties or their counsel are encouraged to have a preliminary conference before any Pretrial Conference at which time they will inspect exhibits, arrive at all possible stipulations and fully explore the question of settlement.

Subsequent to the completion of a Pretrial Conference, the Court may enter upon the record a Pretrial Order embracing all stipulations, admissions, and other matters which have come before the Court. The Court may require a pretrial memorandum of law and/or proposed jury instructions, where applicable, and may request that the Pretrial Order be prepared and submitted by the parties.

Upon scheduling of a “Formal Pretrial Conference”, each counsel shall, at least three (3) days before the conference, present the Court in writing with a statement of:

1. The issues involved;
2. Whether or not a jury trial previously demanded will be waived, and if not, the number of jurors demanded;
3. Whether the case is one where the issue of liability should be tried separately with a subsequent trial on the issue of damages, if liability be found;

4. Any discovery difficulty;
5. List of exhibits;
6. Itemization of special damages;
7. Witness list;
8. Whether a view is requested;
9. Other matters which are expected to be involved in the case.

Counsel will have in their Pretrial statements a list of all witnesses they expect to call or testify. In the absence of reasonable notice to opposing counsel of additions to this list, only those witnesses listed in the Pretrial statement, or Pretrial Order issued by the Court, will be permitted to testify at the trial. The only exception will be witnesses solely for the purpose of impeachment, rebuttal or other witnesses permitted to be called upon the showing of good cause.

All Pretrial statements must contain certificates of service.

Each counsel shall bring to a formal Pretrial Conference all exhibits which are expected to be offered as evidence at the trial. Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the Pretrial statement, or Pretrial Order issued by the Court, with the exception of exhibits solely to be used for the purpose of impeachment.

Upon the failure of a party to appear at a Pretrial Conference or otherwise comply in any respect to this Rule, and any Order made pursuant thereto, the Court may make such Order as deemed appropriate under the circumstances, including, but not limited to:

Dismissal of a cause of action for lack of prosecution pursuant to Ohio Rule of Civil Procedure 41(B)(1) or an ex parte proceeding for the party in compliance.

At the completion of a Pretrial Conference, a trial date shall be scheduled by the assigned judge unless another Pretrial Conference or a motion hearing is scheduled at that time.

## **RULE 30**

### **DEFAULT JUDGMENT**

A motion 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. A motion for default judgment shall contain a list of damages supported by documentary or other evidence. A proposed entry shall accompany the motion.



## **RULE 31**

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A party requesting findings of fact and conclusions of law shall submit concurrently with his/her request proposed findings of fact and conclusions of law. A copy of the request and proposed findings of fact and conclusions of law shall be served upon the adverse party and the adverse party shall have seven (7) days from the date of service to submit alternative proposed findings of fact and conclusions of law.

## **SPECIAL CIVIL PROCEEDINGS**

### **RULE 32**

#### **TIME LIMITS; APPLICABILITY OF CIVIL RULES**

Cases that have time limits established by the Ohio Revised Code and the Ohio Rules of Civil Procedure shall be set for hearing within those time limits. In all other special proceedings, a case shall be set for a hearing within a reasonable time not to exceed six (6) months.

The Civil Rules pertaining to case management in civil proceedings shall also apply to special civil proceedings, including provisions for notice of service, dismissal of an action, submission of entries, notification of the judge upon filing of a responsive pleading and other such provisions.

### **RULE 33**

#### **FORCIBLE ENTRY AND DETAINER**

Actions in forcible entry and detainer shall be filed and proceedings conducted in accordance with the provisions of Ohio Revised Code Chapter 1923 and any amendments thereto. A complaint in forcible entry and detainer shall state the reason for the eviction, and copies of the required notice under R.C. 1923.04 and a copy of any written instrument upon which the claim is based shall be attached to the complaint. If an action in forcible entry and detainer contains an additional cause of action for money, then such additional cause of action shall proceed under the applicable rules of civil procedure.

The plaintiff's failure to appear on a claim for forcible entry and detainer may result in the dismissal of the claim, in addition to the dismissal of any other causes of action which are stated in the complaint. If an answer or jury demand is filed, the Assignment Commissioner must be consulted for scheduling of the appropriate hearing. Trial by jury will be deemed waived unless demand is made and the appropriate deposit required by these rules is paid on or before the date and time of appearance as set forth on summons, unless such deposit is waived pursuant to these Rules.

Each forcible entry and detainer case shall be set for hearing before a 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 applicable. The Magistrate shall, at the conclusion of a hearing before him/her, file a written report within seven (7) days.

Once judgment has been entered ordering a defendant to vacate property, a writ of restitution for the premises shall be issued by the Clerk upon receipt of a praecipe requesting that said action be taken and upon deposit of the costs set forth in these Rules.

Should actual physical eviction of property be required pursuant to writ of restitution of premises, the Plaintiff shall arrange for sufficient equipment and workers to be present to accomplish the vacation of a Deputy Sheriff.

### **RULE 34**

#### **RENT ESCROW**

A tenant may initiate a rent escrow by filing a form supplied by the Clerk which shall include a statement that the tenant is current in his/her rent and has given the landlord written notice of the defect(s).

The tenant may apply to the Court for an order: directing the landlord to remedy the condition(s); and/or using the rent deposited to remedy condition(s). The tenant shall, in his/her application, specify the periodic rental due from the date of filing. The tenant must deposit any rental due, subject to reduction by order of the Court, on or before the due date.

The Clerk shall assign the rent escrow a case number and shall give written notice by certified mail to the landlord. Upon filing of an application by a landlord pursuant to Ohio Revised Code Section 5321.09, a hearing shall be scheduled, before a judge or magistrate, within the time allowed by law.

A one percent (1%) fee shall be charged as costs to be applied against all amounts escrowed

and shall be assessed to the landlord unless the court directs otherwise. See Ohio Revised Code Section 5321.09(D).

## **RULE 35**

### **SMALL CLAIMS**

Actions filed in the Small Claims Division of the Court shall be filed and proceedings had in accordance with provisions of Ohio Revised Code Section 1925.01 through 1925.17 and any amendments thereto.

A plaintiff must file sufficient copies of any documents supporting his/her claim to allow for service of process and provide the current address of each defendant. The plaintiff shall also file, at the time of filing the complaint, a request for regular mail service in the event of failure of certified mail service.

Upon failure of service on the defendant(s), the Clerk shall notify the party or counsel immediately. If no action is taken within sixty (60) days thereafter, the Clerk shall notify the party or counsel that the case will be dismissed within ten (10) days unless good cause is shown to the contrary.

Contested hearings before a Magistrate or Judge will be informed, and the Ohio Rules of Civil Procedure shall not apply to a hearing in Small Claims Court.

At any time before a trial is held on a small claims complaint the Court may, at the request of a party, or on its own motion, refer the parties to a mediator for mediation, if the Court determines that the parties have not previously attempted to settle their dispute, or if it appears that the matter might be reasonably resolved through mediation. If the mediation procedures are unsuccessful, this fact shall be reported to the Court and the matter shall then proceed to trial. If the mediation procedures are successful, the case may be continued for report or be dismissed in accordance with the agreement reached between the parties.

No transfer to the regular docket of the Court will be permitted until filing costs are paid, unless waived by the Court pursuant to these rules.

If more than one attorney becomes involved with the case, the case shall be transferred to the civil docket of the Court for purposes of scheduling only.

## **RULE 36**

## **GARNISHMENT PROCEEDINGS**

A person seeking an order of garnishment or order in aid of execution against personal earnings in an action shall comply with the provisions of Ohio Revised Code Section 2716.02. A failure to comply with this provision will render the proceedings void.

Where the statutory demand is served personally by the Court, proof of such service shall be recorded by the Clerk.

Where such demand is served by certified mail, proof of such service shall be made by the affidavit of person sending the demand by certified mail and shall be accompanied by the signed certified mail receipt. If the demand is returned by the postal authorities marked “unclaimed” or “refused” the envelope showing proof of same shall be filed with the affidavit.

When such demand is served by regular mail, proof of such service shall be made by the affidavit of the person sending the demand by regular mail and shall be accompanied by a properly completed and stamped certificate of mailing of regular mail from the post office.

### **RULE 37**

#### **REPLEVIN**

Actions in replevin shall be filed and proceedings had in accordance with the provisions of Ohio Revised Code Section 2737.01 through 2737.20 and any amendments thereto. If other causes of action or money judgment are included within the action for replevin complaint, then such causes shall be separately dated and numbered and processed under the applicable Ohio Rules of Civil Procedure.

### **RULE 38**

#### **TRUSTEESHIP**

Trusteeship proceedings shall be instituted in accordance with Ohio Revised Code Sections 2329.70 and 2329.71. At the time of applications, an applicant shall disclose to the Clerk his/her pay day and whether it is weekly, bi-weekly, semi-monthly, or monthly. A full payment must be made at the time of application, and every other pay day thereafter, the applicant shall appear and shall provide a current pay stub to the Clerk as Trustee, and pay from his/her personal earnings all amounts exempted by law and such portion as the applicant wishes to pay over and above said sum not exempt by law. Failure to pay accordingly will be cause for termination of the trusteeship.

Upon filing of an application for appointment of a trustee, the Clerk shall notify each creditor, listed in the applicant's statement, that the application will be presented to a judge of the Bowling Green Municipal Court upon a date fixed by the Clerk. The Clerk shall likewise instruct the applicant to be present at the time and place, upon hearing of said application. With such notice, the Clerk shall request each creditor to submit a proof of claim. No apportionment of distribution shall be made to any creditor until a proof of claim is filed with the Clerk.

Any proof of claim by a creditor shall be verified before any officer authorized to administer oaths. Such proof of claim shall state the creditor's correct address, the amount such creditor believes to be due to him, and the consideration for such claim. A creditor shall attach to his/her proof of claim any agreements or other documentation in support of his/her claim. Any claimant of the debtor may by motion obtain a hearing to settle disputes concerning any proof of claim, or the Trustee may schedule a hearing on his/her own motion.

The Clerk, in the event an applicant shall fail to make any scheduled payment, shall, within ten (10) days after the scheduled payment is due, mail a letter by ordinary mail, to the applicant at the address listed by him on his application, or as thereafter provided by him, requiring him to appear on a date not less than five (5) days nor more than ten (10) days from the date of the letter to show cause why the trusteeship should not be terminated. If the applicant fails to appear, the Clerk shall forthwith prepare an entry terminating the trusteeship for cause. If the applicant appears, a hearing shall be held before the judge of the Bowling Green Municipal Court to determine whether the trusteeship should be dismissed for nonpayment.

All funds received by the Clerk shall be deposited in the bank designated by the Clerk as the depository for funds held by the Clerk as trustee to prevent garnishment. Such deposits shall be held in the name of the Clerk. Within sixty (60) days after the receipt of any payment from the applicant, the Clerk shall mail checks payable to the order of the debtor's creditors, addressed to each creditor at the address shown upon the creditor's authenticated proof of claim. No deposit shall be required for a trusteeship, but cost shall be assessed and paid as provided for in the Schedule of Costs appended as Appendix "C".

### **RULE 39**

#### **JUDGMENTS UPON WARRANT OF ATTORNEY TO CONFESS**

Judgments by confession, upon warrant of attorney, will not be entered in the absence of the

defendant, except upon proof, satisfactory to the Court, of the signature of the maker upon the warrant of attorney or other instrument upon which judgment is sought to be taken. As a condition precedent to the entering of judgment, the original warrant of attorney shall be produced in open Court, and the Court shall satisfy itself that the warning required by the Ohio Revised Code Section 2323.13(D) appears on the instrument upon which judgment is sought to be taken and such instrument was executed on or after January 1, 1974.

Judgment by confession shall not be entered upon instruments executed on or after January 1, 1974, arising out of a consumer loan or consumer transaction, and actions on such instruments shall proceed as with other civil cases, except that trial in such action shall be held within sixty (60) days of the filing of an answer unless continued by the Court for good cause.

Immediately upon entering a judgment by confession, upon warrant of attorney, the attorney for plaintiff shall cause a praecipe to be filed with the Clerk of the Court requesting a copy of the judgment entry to be forwarded to the defendant at the address shown in the complaint by certified mail, return receipt requested, in accordance with Ohio Revised Code Section 2323.13(C).

## **CRIMINAL RULES**

### **RULE 40**

#### **CASE MANAGEMENT-ARRAIGNMENT**

Arraignment will be scheduled on the first working day after a physical arrest and lock up. Arraignment in other cases will be scheduled in accordance with Rule 20. Except in extraordinary cases, no case will be continued more than one time for arraignment.

Minor misdemeanor arraignments may be held before a Magistrate or Judge. If scheduled before a Magistrate, a defendant shall sign a waiver of Judicial Arraignment on his/her specific court date. Any person who does not wish to waive his/her right to arraignment before a Judge shall appear before a Judge for arraignment at a time scheduled by the Court.

A written "not guilty" plea may be entered prior to the date scheduled for arraignment. A written "not guilty" plea shall be made on Form CR2 appended at Appendix "E". Such plea shall

be filed with the Court, and a person filing the not guilty plea shall obtain a hearing date from the Assignment Commissioner.

When filing written “not guilty” pleas on multiple charges, it is required that a plea form be signed and completed for each case. The plea form shall contain the following information:

1. Full name of defendant
2. Case number
3. Nature of offense(s)
4. Code number of offense(s)
5. Date of arraignment

If a written not guilty plea is entered in accordance with this rule, neither counsel nor the defendant need to appear at the scheduled arraignment. However, if a separate hearing is required to be scheduled, for review of license or bond, the appearance of counsel and/or defendant is not excused from this hearing.

## **RULE 41 JUSTIFICATIONS**

All jury demands must be filed within the time limits established by the Ohio Rules of Criminal and/or Traffic Procedure and/or the Ohio Revised Code. A jury demand may be signed by counsel on behalf of a defendant. A jury demand shall be filed with the Clerk and shall be scheduled for Pretrial Conference pursuant to Rule 43.

A jury demand is not required to be filed if the offense is “serious” as that term is used in the Ohio Rules of Criminal and/or Traffic Procedure.

No cash deposit for costs shall be required to accompany a demand for jury trial.

## **RULE 42 APPEALS/TRANSFERS FROM MAYOR’S COURT**

In any case originating from a Mayor’s Court, transferred for trial where a right to a jury trial exists, or appealed from the Mayor’s Court to this Court pursuant to statute, or transferred pursuant to R.C. 1905.032, the attorney for the municipality shall present to the Court:

1. A notice of appeal or transfer;
2. The original traffic citation or criminal complaint and affidavit under which the

Defendant was charged;

3. A docket statement, certified by the Mayor or the Mayor's designated authority which shall serve as certified transcript of the proceedings in such Mayor's Court, together with all papers filed in the case, every cost to date, the recognizance given and a copy of the ordinance section, including penalty section, under which the Defendant was charged.

All appeals or transfers shall be set on the arraignment docket unless the counsel for the municipal corporation, upon filing such transfer or appeal, presents to the Clerk of the Courts and Assignment Commissioner, a written plea of not guilty from the defendant, in which case, the case shall be docketed, assigned a Municipal Court case number, and assigned to a judge for proceedings thereon.

**RULE 43**  
**CASE MANAGEMENT—PLEA OR TRIAL SETTING**  
**PRETRIAL CONFERENCE**

No case, with the exception of a minor misdemeanor case, shall be scheduled for trial without first being scheduled either for a plea or trial setting or pretrial conference, unless the Defendant is represented and requests the immediate scheduling of a trial to the Court, the Defendant waives his/her right to counsel, or the assigned judge directs the immediate scheduling of the case for trial.

Unless a pretrial conference is requested, or counsel files a jury demand, a case shall be scheduled for plea or trial setting within twenty-one (21) days (1 week if the Defendant is confined), unless there is a time waiver, or unless the judge directs otherwise. Without prior approval from the judge, no plea or trial setting shall be scheduled more than six (6) weeks from the date of arraignment. The attendance of a prosecuting witness or arresting officer shall not be required at a plea or trial setting, unless the judge so directs. At the plea or trial setting, if the case is not concluded, the case shall be scheduled by the Judge or Assignment Commissioner for a subsequent hearing.

A pretrial conference shall not be scheduled except upon request or if the judge so directs. The filing of a jury demand by counsel for a Defendant shall be construed to include a request for pretrial conference. Pretrial conferences shall be scheduled within fifteen (15) days of the arraignment unless there is a time waiver, or the judge otherwise directs. Without prior approval from the judge, no pretrial conference shall be scheduled more than six (6) weeks from the date of



arraignment.

Unless the judge otherwise directs, the defendant, counsel for the defendant, private complainant, and prosecutor who will try the case shall be present at the pretrial conference. The attendance of an arresting officer shall not be required at a pretrial conference, unless the judge otherwise directs.

The pretrial conference shall be conducted in accordance with Criminal Rule 17.1. If a case is not concluded at a pretrial conference, the case shall be scheduled for an appropriate hearing by the assigned judge.

If a jury demand has been timely filed, no case shall be scheduled for a bench trial, unless a waiver of jury trial is signed by the defendant and counsel and filed with the Clerk.

**RULE 44**  
**CASE MANAGEMENT-TRIAL, MOTION HEARINGS**  
**AND SENTENCING**

In scheduling a case for hearing on a motion, trial to the court, or a trial to a jury, it shall be the responsibility of counsel to advise the judge or the Assignment Commissioner of the estimated time required for the hearing or trial, if the time required will be more than fifteen (15) minutes.

Based on the number of cases scheduled for jury trials, and the need to resolve cases within the time limits specified in the Ohio Revised Code and the Rules of Superintendence, it may be necessary to schedule more than one case for trial to a jury on a given day. In such event, it shall be assumed that each case will proceed to trial on that day, and counsel and parties shall prepare accordingly. In the event more than one case remains unresolved seventy-two (72) hours prior to the time for commencement of a jury trial, the judge shall, in order to minimize inconvenience to parties, attorneys and witnesses, designate which case shall be tried on that date. The Assignment Commissioner shall then notify counsel and unrepresented parties to any other case scheduled for trial on that date, that their case is being continued due to a crowded trial docket. At the same time, the Assignment Commissioner shall notify the counsel and unrepresented parties to this case of the trial date(s).

Upon a finding of guilty, sentencing shall occur within seven (7) days from trial, if no pre-sentence investigation is requested, or, in the case of a pre-sentence investigation, within forty-two (42) days. Upon the request of the Defendant, or for other good cause, the Court may

extend these time limits.

#### **RULE 45**

##### **APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS**

An attorney (other than the Wood County Public Defender) appointed to represent an indigent defendant shall submit his/her request for payment, on a form approved by the Court, within forty-five (45) days after the termination of the case. Any failure to comply with this requirement may result in a disallowance of the request, to the extent that the compensation would be subject to reimbursement by the State Public Defender's Office.

#### **RULE 46**

##### **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 by law or Court. In accordance with Ohio Criminal Rule 4.1, there is hereby established a Minor Misdemeanor Violations Bureau, for which no court appearance is required by law. A schedule of fines shall be established from time to time by this Court and shall be posted in the Clerk's Office. The judge of the Court may prescribe statistical forms to be used in the reporting of cases processed through the Bureau.

#### **SPECIAL CRIMINAL PROCEEDINGS**

#### **RULE 47**

##### **CASE MANAGEMENT-SPECIAL CRIMINAL PROCEEDINGS**

The purpose of this rule is to establish, pursuant to Sup.R. 5 , a case management system for special criminal proceedings to achieve a prompt and fair disposition of these matters. Examples of special criminal proceedings include probation violations, contempt hearings, preliminary hearings, extradition hearings, and bond hearings.

A case that has a time limit established by the Ohio Revised Code or the Ohio Rules of Criminal Procedure shall be set for hearing within these time limits. In all other special

proceedings a case shall be set for hearing within a reasonable time, not to exceed ninety (90) days unless, upon the request of the defendant or for other good cause, the Court may extend this time limit.

When one or more misdemeanor offenses are charged of the defendant, together with one or more felony offenses, the misdemeanor offense(s) shall be scheduled for plea or trial setting at the same time, and before the same judge, as the preliminary hearing on the felony charge(s), if the offenses are of the same or similar character, or based on the same act or transaction, or are based on two (2) or more acts or transactions connected together or constituting parts of a common scheme or plan, or are part of a course of criminal conduct. Upon the dismissal or bind over of the felony charge(s), if there has been no resolution of the misdemeanor charge(s), the case(s) involving misdemeanor charges shall be scheduled for appropriate hearing by the Assignment Commissioner.

## **RULE 48**

### **BOWLING GREEN MUNICIPAL COURT JURY USE AND MANAGEMENT PLAN**

- I. Opportunity for Services
  - A. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
  - B. Jury service is an obligation of all qualified citizens of the Bowling Green Municipal Court District, Wood County, Ohio.
- II. Jury Source List
  - A. Pursuant to Court Order, the jury source list shall be obtained from the Board of

Elections' list of registered voters. The Court shall designate a key number based on the total number of registered voters and the number of jurors needed for a year of service. The Jury Commissioners shall then receive a computer printout from the Board of Elections (for example, every 14<sup>th</sup> name).

- B. The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- C. The Court shall annually review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

### III. Random Selection Procedures

- A. The jury source list from the Board of Elections shall be printed out on a computer list which has printed jurors' names at random, during a public jury drawing.
- B. Departures from the principle of random selection are appropriate only to comply with lawful exception.

### IV. Eligibility for Jury Service

- A. All persons shall be eligible for jury service except those who:
  - 1. Are less than eighteen years of age;
  - 2. Are not citizens of the United States;
  - 3. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, The Bowling Green Municipal Court District.
  - 4. Are not able to communicate in the English language; or
  - 5. Have been convicted of a felony and have not had their civil rights restored.

### V. Term and Availability of Jury Service

- A. The time that persons are called upon to perform jury service and to be available would be the shortest period consistent with the needs of justice.

The Assignment Office has implemented a telephone system whereby jurors can call either a local number or a toll free number to hear a message which informs them as to whether they are still needed for jury service.

### VI. Exemption, Excuse, and Deferral

- A. All automatic excuses or exemptions, with the exception of statutory exemption,

from jury service should be eliminated.

- B. Prospective jurors are excused for the following reasons: over age 70 and requests to be excused; financial hardship; personal or family illness; child care hardship; physician; firefighter or lawyer. Prospective jurors are rescheduled for the following reasons: vacation; employment hardship; or student.
- C. Deferrals for jury service for reasonable short periods of time may be permitted by a judge or specifically authorized court official.
- D. Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded.

## VII. Voir Dire

- A. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.
- C. The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and that the questioning is consistent with the purpose of the voir dire process.
- E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.
- F. Rules on Voir Dire
  1. The case may not be argued in any way while questioning the jurors.
  2. Counsel may not engage in efforts to indoctrinate jurors.
  3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity of philosophy of reasonable doubt or the presumption of innocence.
  4. Jurors may not be asked what kind of verdict they might return under any circumstances.
  5. Questions are to be asked collectively of the entire panel whenever possible.

VII. Removal from Jury Panel for Cause

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

IX. Peremptory Challenges

Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

X. Administration of the Jury System

- A. The responsibility for administration of the jury system shall be vested exclusively in the Bowling Green Municipal Court.
- B. All procedures concerning jury selection and service should be governed by Ohio Rules of the Court.

XI. Notification and Summoning Procedures

- A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:
  - 1. Combined in a single document;
  - 2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
  - 3. Delivered by ordinary mail.
- B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
  - 1. Determining whether a person meets the criteria for eligibility;
  - 2. Providing basic background information ordinarily sought during voir dire examination; and
  - 3. Efficiently managing the jury system.
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- E. Jurors who fail to report for service are scheduled for a contempt hearing to inform

the judge as to why they did not appear. Sanctions are imposed as warranted.

## XII. Monitoring the Jury System

The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summons;
- D. The efficient use of jurors; and
- E. The cost-effectiveness of the jury management system.

## XIII. Juror Use

- A. The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for the jury duty and the number assigned to jury panels.

## XIV. Jury Facilities

- A. The Court shall provide an adequate and suitable environment for jurors.
- B. The entrance and registration shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.

## XV. Juror Compensation

- A. Persons called for jury service should receive a reasonable fee for their service and expenses pursuant to statutory authority.
- B. Such fees shall be paid promptly.
- C. Employers SHALL be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

## XVI. Juror Orientation and Instruction

- A. The Court shall have an orientation program designed to increase prospective jurors'

understanding of the judicial system and prepare them to serve competently as jurors.

- B. The Court shall provide some form of orientation or instruction to persons called for jury service.
- C. The trial judge should:
  - 1. Give the preliminary instructions to all prospective jurors;
  - 2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed and the basic relevant legal principles;
  - 3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions may be made available to the jurors during deliberations.
  - 4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system.
  - 5. Before dismissing a jury at the conclusion of a case the trial judge should:
    - a. Release the jurors from their duty of confidentiality;
    - b. Explain their rights regarding inquiries from counsel or the press;
    - c. Either advise them that they are discharged from service or specify where they must report; and
    - d. Express appreciation to the jurors for their service, but not express approval of disapproval of the result of the deliberation.
- D. All communications between the judge and members of the jury panel from time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and be given the opportunity to be heard.

#### XVII. Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

#### XVIII. Jury Deliberations

- A. Jury deliberations should take place under conditions and pursuant to procedures



that are designed to ensure impartiality and to enhance rational decision making and shall conform with existing Ohio law.

- B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- C. A jury should not be required to deliberate 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.
- D. Training should be provided to personnel who escort and assist jurors during deliberations.

**XIX. Sequestration of Jurors**

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- C. Standard procedures should be promulgated to:
  - 1. Achieve the purpose of sequestration; and
  - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- D. Training shall be provided to personnel who escort and assist jurors during sequestration.

**RULE 49**

**SPECIALIZED DOCKET FOR MULTIPLE OVI OFFENDERS**

In order to provide supervision and effective treatment of multiple OVI offenders, the Court hereby establishes the "Bowling Green Municipal Court OVI Program."

A Judge may refer an individual to the OVI Court Team for consideration for participation in the Specialized Docket Program. The OVI Court Team will determine appropriateness for participation in the program based upon specific eligibility criteria and make recommendations to the OVI Court Program Judge. The OVI Court Program Judge shall then determine whether to accept the individual into the program. If admitted, the case shall be transferred to the specialized docket of the OVI Court Program Judge for further proceedings. The OVI Court Program Judge is

authorized to accept any plea from the offender, sentence the offender, and shall have supervision responsibility over the offender. If terminated from the OVI Court Program, the individual shall be sentenced by the OVI Court Program Judge according to the criminal sentencing laws as contained in the Ohio Revised Code. For purposes of Supreme Court statistical reporting, the case shall be considered disposed by the assigned Judge when the offender is found guilty of the offense.

Individuals found to be in violation of their community control terms may be referred by a Judge to the OVI Court Team for Program consideration.

Rule 49 shall be effective on or after June 1, 2011.



**APPENDIX A**  
**FORM ENTRIES AND ABBREVIATIONS**

A	-In case notation-Felony
ATC	-Assessment and follow through with recommendation for treatment and counseling
B	-In case notation-Misdemeanor
BF	-Bond forfeiture
BMV	-Bureau of Motor Vehicles
BW	-Bench warrant
C	-In case notation-OMV
C/P	-Conditions of probation
CR	-Refers to criminal cases/ used in case notation
CRC	-Clermont Recovery Center
CS	-Community Service
CV	-Refers to civil cases/used in case notation
D	-In case notation-all other traffic
DEF	-Defendant
E	-In case notation-personal injury and property damage
ENF	-Enforcement
EXP	-Expungement hearing
F	-In case notation-contracts
F/C	-Fines and costs hearing
FD	-Final disposition
FED	-Forcible entry and detainer
FRA	-Financial Responsibility Act
G	-In case notation-Forcible Entry and Detainer
G	-Guilty Plea
H	-In case notation-other civil (e.g., BMV appeal)
I	-In case notation-Small Claims
JT	-Jury trial
MH	-Motion hearing
N/C	-No contest plea
N/G	-Not guilty plea
NR	-Non-reporting
OI	-Order in
OL	-Operator's license
P	-Plaintiff
P	-Prosecuting Attorney
PD	-Public Defender
PH	-Preliminary hearing
POI	-Proof of insurance
PSI	-Pre-sentence investigation
PT	-Pretrial

PTD	-Pretrial diversion
PTS	-Plea or Trial Setting
PV	-Probation violation hearing
RDIP	-Residential Driver Intervention Program
RS	-Reporting Status
S/R	-Stay/Review hearing
TPO	-Temporary Protection Order
TR	-traffic cases/used in case notation
TTC	-trial to court
W	-waiver
1	-Count One in case with multiple charges
2	-Count Two in case with multiple charges
3	-Count Three in case with multiple charges

**APPENDIX B**

**BOWLING GREEN MUNICIPAL COURT**

State of Ohio

Case

No. \_\_\_\_\_

vs.

**DESIGNATION OF TRIAL  
ATTORNEY**

\_\_\_\_\_

Defendant

The undersigned attorney hereby states that he/she is the trial attorney for the above captioned Defendant and shall remain so until he/she is relieved in accordance with and pursuant to Sup.R. 36.

\_\_\_\_\_  
Attorney for Defendant (Signature)

\_\_\_\_\_  
Attorney for Defendant (Typed or printed name)

Address \_\_\_\_\_  
\_\_\_\_\_

Phone No. \_\_\_\_\_

Supreme Ct. Reg. No. \_\_\_\_\_

**APPENDIX C**

**BOWLING GREEN MUNICIPAL COURT**

**LOCAL COSTS**

<b>MOVING TRAFFIC OFFENSES:</b>	
<b>State Costs</b>	
-Victims of Crime Fund	9.00
-Indigent Defense Support Fund	20.00
<b>-Moving Violation Fee (\$10.00)</b>	
Drug Enforcement Fund (97% )	3.40
Justice Program Services Fund	.10
(3%)	1.50
Indigent Drivers Alcohol Fund	5.00
Indigent Defense Support Fund	
<b>Local Costs</b>	
-General Fund	BGCC 35.00
-Special Projects Fund	CIF
-Computerize Clerks Office	11.00
<b>TOTAL COSTS</b>	5.00
	<b>\$90.00</b>

<b>NON-MOVING TRAFFIC OFFENSES:</b>	
<b>PEDESTRIAN OFFENSES</b>	
<b>State Costs</b>	
-Indigent Defense Support Fund	10.00
<b>Local Costs</b>	
-General Fund	BGCC 40.00
-Special Projects Fund	
<b>TOTAL COSTS</b>	CIF 16.00
<b>SEATBELT OFFENSES</b>	<b>\$66.00</b>
<b>State Costs</b>	
-Indigent Defense Support Fund	
<b>Local Costs</b>	
-General Fund	
-Special Projects Fund	10.00
<b>TOTAL COSTS</b>	BGCC 35.00
<b>PARKING OFFENSES:</b>	CIF 11.00
<b>Local Costs</b>	
-General Fund	<b>\$56.00</b>
-Special Projects Fund	
-Computerize Clerks Office	BGCC 40.00
<b>TOTAL COSTS</b>	CIF 16.00
	COMP 10.00
	<b>\$66.00</b>
<b>CRIMINAL OFFENSES:</b>	
<b>State Costs</b>	
-Victims of Crime Fund	9.00
-Indigent Defense Support Fund	20.00
<b>Local Costs</b>	
-General Fund	BGCC 40.00
-Special Projects Fund	
-Computerize Clerks Office	CIF 16.00
<b>TOTAL COSTS</b>	5.00
	<b>\$90.00</b>



NEW BOND "SURCHARGE" INDIGENT DEFENSE FUND	\$25.00 (refund if NG/dismissed)
---	-------------------------------------

<b>ADDITIONAL FEES:</b>		
Sealing of Record Fee	\$50.00	
Issuing Warrants	15.00	+ service fees
Jail Fee	8.00	
License Forfeitures (BMV fee)	15.00	
Warrant Blocks (BMV fee)	15.00	
Witness Fees (6.00 ½ day + mileage)	(variable)	
Civil & Criminal (indigent & non indigent defendant) transcripts	3.95	Per page
Original transcripts requested by the prosecutor	3.95	Per page
Electronic recordings	3.95	Per page
Expedited transcript	4.95	Per page
Court reporter computer support	.35	Per page

<b>PROBATION FEES:</b>	
Alcohol Diversion Program	\$150.00
Marijuana Alternative Program	150.00
Presentence Investigation	25.00
OVI Probation Fee	55.00
Probation Fee	35.00
Urine Screens	10.00

Civil costs and deposits appear on the court's website at: <http://bgcourt.org/clerk-of-court/civil-filing-fees.ht>

**APPENDIX D**

**BOWLING GREEN MUNICIPAL COURT**

Classification Form

Case No. \_\_\_\_\_

\_\_\_\_\_

Plaintiff

vs.

\_\_\_\_\_

Defendant

Please indicate classification into which this case falls:

- Personal injury and property damage.....E
- Contract or account.....F
- F.E.D. (Eviction).....G
- 12 Point appeal.....H
- Implied consent appeal.....H
- Replevin.....H
- Small Claim.....I

Please print or type the information requested below

Date: \_\_\_\_\_

Attorney \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

Attorney Reg. No. \_\_\_\_\_

**APPENDIX E**

**BOWLING GREEN MUNICIPAL COURT**

ENTRY OF APPEARANCE FORM  
(appear on the Court's website under forms link)