

THE DELAWARE MUNICIPAL COURT

**Marianne T. Hemmeter
Kyle E. Rohrer
Judges**

**Cindy Dinovo
Clerk**

LOCAL RULES OF PRACTICE



70 NORTH UNION STREET, DELAWARE, OHIO 43015
www.municipalcourt.org

Judges' Offices (740) 203-1501
Criminal/Traffic Division (740) 203-1570
Civil/Small-Claims Division (740) 203-1560
Probation Office (740) 203-1525
Fax (740) 203-1599

Serving all of Delaware County

TABLE OF CONTENTS

General Rules for Parties and Lawyers.....	1
Rule 101: Filing of Documents.....	1
Rule 102: Information To Be Included On Court Filings; Signature	1
Rule 103: Personal Identifying Information May Be Redacted.....	1
Rule 104: Mechanical Requirements for Court Filings; Pagination.....	2
Rule 105: Copies of Motions and Other Filings	2
Rule 106: Fax Filing	3
Rule 107: Most Motions Should Be Accompanied By a Proposed Entry	5
Rule 108: Continuances	5
Rule 109: Attendance at Hearings	6
Rule 110: Court Costs.....	6
Rules Unique to Criminal and Traffic Cases	6
Rule 201: Method of Service of Complaints Should Be Specified; Electronic Tickets	6
Rule 202: Waiving Court Appearances	7
Rule 203: Bail Bond Schedule.....	7
Rule 204: Traffic Safety Program.....	8
Rule 205: Written Not-Guilty Pleas.....	8
Rule 206: Warrant To Be Recalled If Not-Guilty Plea is Filed.....	9
Rule 207: Time Waivers	9
Rule 208: Pretrial Conferences; Requests for Jury Views.....	10
Rule 209: Court-Appointed Counsel	10
Rule 210: Specialized Mental Health Docket.....	10
Rule 211: Diversion Program for Certain Drug and Alcohol Offenders	14
Rule 212: Diversion Program for Certain Theft and Unauthorized-Use Offenders	16
Rule 213: OVI Specialized Docket.....	19
Rule 214: Mission Court Specialized Docket.....	22
Rules Unique to Civil Cases	25
Rule 301: Responses to Motions.....	25
Rule 302: Trial Exhibits; Requests for Jury Views	25
Rule 303: Trial Briefs	25
Rule 304: Mediation	26
Rule 305: Complaints in Forcible Entry and Detainer Cases	28
Rule 306: Small Claims	28
Rules for the Public and Parties Concerning the Court Building and the Recording of Court Proceedings.....	29
Rule 401: Hours of Operation; Holidays	29
Rule 402: Weapons in the Court Building.....	29
Rule 403: Proper Conduct in the Courtrooms.....	30
Rule 404: Recordings of Court Proceedings.....	30
Rules for the Administration of the Court	30
Rule 501: The Clerk May Collect Delinquent Fines and Costs with the Assistance of a Private Collection Agency	30
Rule 502: The Clerk May Transfer Out-of-County Criminal and Traffic Cases.....	30
Rule 503: Maintenance and Destruction of Records	31
Rule 504: Jury Management Plan	32

Rule 505: Magistrates 33

General Rules for Parties and Lawyers

Rule 101: Filing of Documents

The filing of a document with the court may be accomplished by presenting the document to the clerk of the court during the regular business hours of the clerk's office, by fax filing as described in Rule 106 below, or by sending the document to: Clerk of Court, The Delaware Municipal Court, 70 N. Union St., Delaware, Ohio 43015.

A document sent by mail or other delivery service will not be considered filed until it is received in the clerk's office.

Rule 102: Information To Be Included On Court Filings; Signature

On each document presented to the clerk for filing, parties and attorneys should list their names, addresses, telephone numbers, fax numbers, and email addresses. Attorneys should also list their Ohio attorney registration numbers.

In addition, the case name and case number should be listed on each document filed with the clerk, as well as the title of the document (for example, Defendant's Motion to Continue, Plaintiff's Pretrial Statement, etc.).

The original of every document filed with the clerk should be signed by an attorney representing the party on whose behalf the document is filed. A party who is not represented by an attorney should sign any document being filed.

Rule 103: Personal Identifying Information May Be Redacted

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

to the clerk for filing. The clerk will not review documents to confirm that personal identifying information has been redacted.

If personal identifying information is redacted or omitted from a document, the information should be provided to the court on a separate form that indicates what information has been redacted or omitted and provides the location of the redacted or omitted information. A suitable example of that type of form is included in the appendix to the Rules of Practice of the Supreme Court of Ohio.

Rule 104: Mechanical Requirements for Court Filings; Pagination

All documents presented to the clerk for filing should be on paper that is 8.5 by 11 inches in size, and the text of all documents should be no smaller in size than 12-point type. The margin on the top of each page should be at least one inch so that the clerk can punch holes in that margin without obscuring the document's text.

Every multi-page document filed with the clerk should be paginated and should be firmly stapled in the upper-left corner of the document. Also, sufficient blank space should be visible in the upper-right portion of the first page of each document so that the clerk can date-stamp the document without obscuring the document's text.

The clerk may accept handwritten documents for filing, but the clerk may reject any document that is not clearly legible.

Rule 105: Copies of Motions and Other Filings

Only the signed original of a motion (or other written filing) need be presented to the clerk, unless the court's cost schedule specifies that multiple copies are required. If the motion or other document is to be filed in two or more case files, however, then the party presenting the document should provide sufficient copies with the original so that the clerk can place a copy in each case file to which the motion or other document pertains. (That is, if a motion is to be filed in both a criminal case and a traffic case involving the same defendant, the original and one copy of the motion should be filed with the clerk).

A party filing a motion to suppress in a criminal or traffic case should provide an extra copy of that motion to the clerk, who in turn will give it to the assigned judge or magistrate.

A party who wishes to receive a date-stamped copy of a document submitted to the clerk for filing should provide the clerk with an extra copy of the document, along with a sufficiently large envelope that is self-addressed and postage-paid.

Rule 106: Fax Filing

Pleadings and other papers may be filed with the clerk by facsimile (“fax”). The number for the clerk’s fax machine is 740-203-1599. Faxed documents intended for filing must be faxed to the clerk and not to the judges’ chambers.

A document filed by fax will be accepted as the effective original filing of the document. The person filing a document by fax should not mail or otherwise deliver the same document to the clerk a second time, but that person should maintain in his or her records the original signed copy of the fax-filed document, as well as the fax cover sheet sent to the clerk with the document.

Fax filings must be no longer than 10 pages in length, not including the cover sheet.

Subject to the provisions of these rules, all documents sent by fax and received by the clerk will be considered filed with the clerk as of the date the clerk date-stamps the document, as opposed to the date and time of the fax transmission itself. Documents may be faxed to the clerk at any time, however, including times when the clerk’s office is closed.

The risks of transmitting a document by fax to the clerk must be borne entirely by the sending party. Anyone using fax filing is welcome to verify with the clerk that the faxed document has in fact been received.

No fee is charged for fax filing itself, but any applicable court costs associated with the proposed filing must be paid before the faxed document will be accepted by the clerk and filed.

The cover sheet for a fax filing should list:

- (A) the name of our court;
- (B) the title of the case;
- (C) the case number;
- (D) the name of the assigned judge, if any;
- (E) the title of the document being filed;
- (F) the date of transmission;
- (G) the transmitting fax number;
- (H) an indication of the number of pages included in the transmission, including the cover sheet;
- (I) the name, address, telephone number, fax number, Supreme Court registration number (if any), and e-mail address of the person filing the faxed document;
- (J) if applicable, a statement explaining how costs are being submitted.

If a document is sent by fax to the clerk without the cover page information listed above, the clerk may properly treat the document as not having been filed. The clerk may – but is not required – to notify the sender of a failed fax filing.

A party who wishes to file a signed document by fax must either (1) fax the signed document to the clerk or (2) fax a copy of the document without the signature but with the notation “/s/” followed by the typewritten name of the signing person. A party who files a signed document by fax represents that the physically signed document is in his or her possession or control.

If an exhibit cannot be transmitted accurately by fax, the exhibit should be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit should be filed with the clerk, as a separate document, within five court days after the fax filing. The court may strike

any document or exhibit, or both, if missing exhibits are not filed as required by this paragraph.

Any exhibit filed in accordance with the paragraph just above should be accompanied by a cover sheet listing the name of the case, the case number, the assigned judge's name, and the title of the exhibit itself. The exhibit and the signed cover sheet should be served on all other parties.

Rule 107: Most Motions Should Be Accompanied By a Proposed Entry

Any party filing a motion with the court should present at the same time a proposed entry that the party wishes the assigned judge or magistrate to sign. (No proposed entry need be tendered with a motion to suppress in criminal and traffic cases).

Rule 108: Continuances

Any request for the continuance of a scheduled court hearing should be made in a written motion that is filed with the clerk, and the motion should describe one or more reasons for the request. If the request is grounded on an attorney's prior commitment in another court on the date of the scheduled hearing in this court, a copy of the scheduling notice from that other court should be attached to the request for a continuance in this court.

A party seeking a continuance of a scheduled hearing is welcome to suggest alternative dates and times when that party expects to be available for the hearing.

Parties should strive to avoid filing motions to continue jury and bench trials, and any such motions should be filed as soon as the party realizes that a continuance is necessary.

Rule 109: Attendance at Hearings

Parties or their attorneys must attend scheduled hearings in their cases, and rarely is “I did not know about the hearing” an acceptable excuse for missing a hearing. The docket for each case is available on the court’s web page (www.municipalcourt.org), and notices about court hearings are provided by the court to attorneys and to unrepresented parties. The court expects attorneys and parties to stay on top of developments in their cases and to attend all hearings that are scheduled.

Attorneys are welcome to let the judges’ staff know about dates when they will not be available to attend hearings at our court because of vacations or other commitments. The court will do its best to take that information into account when scheduling hearings.

Rule 110: Court Costs

A list of the court costs to be collected by the clerk is set by the court’s judges through an administrative order. The latest cost schedule is available at the clerk’s office and on the court’s web page at www.municipalcourt.org

Rules Unique to Criminal and Traffic Cases

Rule 201: Method of Service of Complaints Should Be Specified; Electronic Tickets

The prosecutor or the law enforcement agency filing a criminal or traffic complaint should indicate on the complaint or on accompanying documents either that the complaint has been served on the defendant or that a warrant or summons is requested. The clerk may refuse to file the complaint if it has not been served on the defendant and if no request for the issuance of a warrant or summons is provided to the clerk.

If a criminal or traffic complaint is filed after the date when the defendant was ordered to appear in court for an arraignment, the prosecutor or law enforcement agency filing the complaint must request the issuance of a new summons or a warrant.

Traffic tickets produced by computer or other electronic means may be filed at the court, and those electronically-produced tickets may be filed here either electronically or in paper form. The signature of the defendant is not required on those tickets, but – aside from the color, weight, and binding requirements that typically apply to paper copies of traffic tickets in Ohio – any electronically-produced tickets should conform in layout and content to the Ohio Uniform Traffic Ticket form. Any defendant to whom a traffic ticket is issued must be provided with a paper copy of the ticket in accordance with Rule 3(E) of the Ohio Traffic Rules.

Rule 202: Waiving Court Appearances

As permitted by Ohio Criminal Rule 4.1 and Ohio Traffic Rule 13, the court has established a waiver schedule through an administrative order. Under that order, defendants in some traffic cases and some minor-misdemeanor criminal cases may waive their right to appear before the court and may enter a guilty plea by paying a fixed amount of money to the clerk. The latest list of so-called waivable offenses and the waiver amount corresponding to each offense is available at the clerk's office and on the court's web page at www.municipalcourt.org

Rule 203: Bail Bond Schedule

As permitted by Ohio Criminal Rule 46(G), the court has established a bail bond schedule for certain criminal and traffic offenses. The clerk and local law enforcement agencies are authorized to release from custody those persons who are charged with one or more criminal or traffic offenses and who post bail in accordance with that schedule. The latest bail bond schedule is available at the clerk's office and on the court's web page at www.municipalcourt.org

Rule 204: Traffic Safety Program

Defendants charged with waiverable traffic offenses (that is, persons charged with offenses for which a fine may be paid in lieu of a personal appearance at the court) may participate in the court's traffic safety program if they have not previously participated in that program or if at least four years have passed since they have participated in that program.

A defendant in a traffic case who is eligible to participate in the court's traffic safety program may file the necessary paperwork to participate in that program up to three days after the arraignment date listed on the traffic ticket. The defendant's application to participate in the program must be accompanied by the appropriate fine and cost payment, and the defendant must enter a guilty or no-contest plea to the traffic charge or charges by signing the appropriate form. Also, if the traffic ticket indicates that the defendant did not show proof of insurance when the ticket was issued, the defendant must provide proof of insurance to the clerk of the court.

Once the clerk has received the completed application and the waiver payment, proceedings in the case will be stayed for 60 days while the defendant completes a defensive driving course. If during that 60-day period the defendant files with the clerk a certificate showing that the defendant has successfully completed a defensive driving course, then the case will be dismissed and no conviction will be reported to the Ohio Bureau of Motor Vehicles (BMV). (The original version of the certificate – rather than a photocopy – must be sent by the defendant to the clerk). If the defendant fails to file such a certificate during that 60-day period, the court will report the defendant's conviction on the traffic charge or charges to the BMV. In either case, the defendant's waiver payment will not be refunded.

Rule 205: Written Not-Guilty Pleas

A defendant in a criminal or traffic case may file a not-guilty plea in writing with the clerk rather than appearing in person to enter an initial plea. Once a not-guilty plea is filed with the clerk, the defendant must appear at any pretrial conferences and at the trial scheduled by the court (unless the court grants a request for a continuance).

A defendant named in multiple criminal and traffic cases should make sure that all relevant case numbers are listed on any written not-guilty pleas, as well as on any other filings in the cases.

Rule 206: Warrant To Be Recalled If Not-Guilty Plea is Filed

If the court has issued an arrest warrant in a criminal or traffic case because the defendant failed to appear at an arraignment, the court is willing to recall the warrant without a hearing and set bail in the form of a personal recognizance bond if an attorney enters a notice of appearance for the defendant, files a written not-guilty plea, and files a motion asking for the recall of the arrest warrant. When those documents are filed by the defendant's attorney, he or she should include a draft order stating that the arrest warrant is recalled and that bail is set in the form of a personal recognizance bond. Once a judge has signed that draft order and the warrant has been recalled by the court, a bench trial or a pretrial will be scheduled in the case.

Rule 207: Time Waivers

Defendants in criminal and traffic cases who are willing to waive their constitutional and statutory right to a speedy trial are encouraged to do so by filing a written waiver of that right. The court will always honor the wishes of any defendant who wants to exercise his or her right to a speedy trial, and the exercise or waiver of that right is a matter of choice for each defendant to make. The waiver of that right does free the court's staff from the task of having to calculate the number of days still available for a trial in each case, though, and a speedy-trial waiver does give the court more flexibility in the scheduling of hearings and trials. A waiver of the right – provided it is knowingly and voluntarily executed – is therefore always appreciated.

Unless and until a defendant waives the right to a speedy trial, the court will presume that the right has not been waived.

Rule 208: Pretrial Conferences; Requests for Jury Views

Defendants are required to attend all pretrial conferences.

Any party requesting a jury view should raise that request no later than the pretrial conference.

Rule 209: Court-Appointed Counsel

Attorneys in private practice who wish to be appointed by the court to represent indigent persons in criminal or traffic cases must first have their names added to the court-appointed counsel list that is maintained by the county public defender's office. Applications for those attorneys wishing to be on that list are available from the judges' staff or from the county public defender's office.

Rule 210: Specialized Mental Health Docket

Rule 210.10 Creation of Specialized Docket

Recognizing that the mentally-ill offender poses special challenges to the criminal justice system, the court has created a Mental Health Docket - a problem-solving program - offering intensive supervision and treatment intended to protect the community by reducing recidivism and improving the quality of life for offenders with mental-health disorders.

Rule 210.11 Eligibility for Admission to the Mental Health Docket

The Mental Health Docket is a program for individuals charged with misdemeanors who have been diagnosed with certain mental disorders that are amenable to treatment. Individuals must meet the following criteria to be admitted to the docket:

- a. The offender is charged with a misdemeanor that carries with it the possibility of a jail sentence and is not an OVI charge;

- b. The offender does not have a pending felony;
- c. The offender understands and appreciates the consequences of the legal proceedings;
- d. The offender does not have current sex-offender status;
- e. The offender has legal counsel;
- f. The offender demonstrates a pattern of severe and persistent mental illness consistent with diagnosis (es) in the DSM-IV-TR, DSM-5 or any successor manual;
- g. The offender's mental illness was a factor in the behavior that resulted in the pending charges;
- h. The offender may be appropriately treated in the community and is receptive to behavioral-health treatment; and
- i. The offender does not pose a significant risk of harm to the staff of the court, treatment providers, or other persons working with the docket team.

Rule 210.12 The victim notification provision of Revised Code Chapter 2930 shall be followed where applicable.

Rule 210.13 Referral to the Mental Health Docket

Any judicial officer, jail personnel, defense counsel, prosecuting attorney, treatment or other community provider, law-enforcement personnel, probation officer, or medical provider may make a referral in any form to the Mental Health Docket Coordinator (“docket coordinator”). The Court as a condition of bond may order a defendant to submit to screening for admission to the program. Any statement made by the defendant during the evaluation or screening process is confidential.

Rule 210.14 Screening and Assessment

The docket coordinator will screen defendants for eligibility for admission. If the docket coordinator determines that the defendant is eligible and appropriate for admission to the docket, the docket coordinator will refer the defendant to an appropriate agency or licensed clinical counselor or social worker for a diagnostic assessment. The docket coordinator may recommend a defendant for admission to the docket without an assessment if necessary.

Rule 210.15 Admission to the Mental Health Docket

Admission to the program is made as a condition of community control. If the docket coordinator has made a recommendation for admission, defense counsel may file a motion for voluntary admission. That motion must include the docket coordinator's signed recommendation for admission, and the motion should be filed before a pretrial conference is held in the case. Forms for admission to the Mental Health Docket can be found on the Delaware Municipal Court website under the "Mental Health Docket" tab.

Rule 210.16 Docket Assignment

Cases will remain on the regular docket of the originally assigned judge until a defendant is admitted to the Mental Health Docket. Once admitted, a defendant will be permanently assigned to the judge overseeing the Mental Health Docket regardless of the outcome of the participation in the program.

Rule 210.17 Docket Case Management

The defendant (now "participant") will be referred to treatment providers based on the participant's need for treatment. Services to participants will be expedited pursuant to an agreement of understanding with the treatment providers. Participants will be provided a copy of the participant handbook. The docket team will monitor the participant's behavior through docket team meetings to ensure compliance with the terms of the treatment plan.

Rule 210.18 Mental Health Docket Status Review Hearings

The Court will schedule regular status review hearings to monitor compliance with the original orders, including treatment, in accordance with the program's phases. The docket team is responsible for obtaining and presenting information at the docket hearings regarding the participant's progress. It is the responsibility of the docket team to monitor compliance through communication with the designated treatment provider and through direct monitoring and meeting with the participant. The docket team is comprised of the judge, mental-health docket-probation officer, docket coordinator, and treatment providers.

Rule 210.19 Unsuccessful Terminations

Common behaviors that can lead to unsuccessful termination include but are not limited to the following:

- a. Persistent noncompliance with treatment.
- b. Resistance to treatment.
- c. Conviction of a criminal or serious traffic offense.
- d. Failure to comply with conditions of the treatment plan.
- e. Failure to comply with conditions of community control.

The negative consequences of an unsuccessful termination include:

- a. Loss of future eligibility for the Mental Health Docket.
- b. Legal action including revocation of community control.
- c. Imposition of jail or other restrictions.

Rule 210.20 Neutral Discharge

The following events or actions may lead to a neutral discharge from the Mental Health Docket:

- a. A serious medical condition.

- b. A serious mental-health condition that cannot be adequately addressed by the treatment plan.
- c. Other factors that may keep the participant from meeting the requirements for successful completion.

Upon neutral discharge it will be determined by the Judge whether the participant will continue on community control.

Rule 211: Diversion Program for Certain Drug and Alcohol Offenders

The court's drug-and-alcohol diversion program is intended to provide a short period of supervision and education to those persons who (1) have been charged with any of several alcohol-related misdemeanor offenses or certain drug-related offenses that are minor misdemeanors or fourth-degree misdemeanors and (2) are willing to accept responsibility for their misconduct. The program is aimed at first-time offenders. Those who successfully complete the program will not have a criminal conviction on their records. The goal of the diversion program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.

The program is open to first-time offenders (persons who have not already participated in the diversion program and who have not been convicted as an adult in this or other courts for any other criminal activity or any alcohol-related traffic offenses) whose pending charges are limited to any or all of the following: (1) misdemeanor violations of Chapter 4301 of the Revised Code (regulating the sale, possession, and consumption of alcohol) or comparable municipal ordinances, (2) minor misdemeanor violations of R.C. 2925.11(A) and 2925.11(C)(3)(a) (barring the possession or use of less than 100 grams or marijuana) or comparable municipal ordinances, or (3) fourth-degree misdemeanor violations of R.C. 2925.14(C)(1) (barring the use or possession of drug paraphernalia) or comparable municipal ordinances.

If the prosecutor (1) confirms that a defendant is eligible for the program and (2) recommends that the defendant participate in it, the Court will then ask the defendant if he or she wishes to participate in the program. Before making the recommendation, the prosecutor must consult any victim of the alleged crime(s) and must consider any victim's views. Admission to the program is not automatic,

and the assigned judge retains the discretion to reject the proposed participation of any given defendant.

If the prosecutor recommends that the defendant participate in the diversion program, if the defendant wishes to do so, and if the assigned judge approves the defendant's participation, the defendant must – at an arraignment or a pretrial hearing – do all of the following:

1. Waive, in writing, his or her right to a trial and – if not represented by an attorney – the right to be represented by an attorney;
2. Agree, in writing, to pay the diversion program fee (which is listed on the court's cost schedule posted at www.municipalcourt.org) for supervision services associated with the diversion program, as well as any other court costs for the case; and
3. Enter a guilty plea to the charge or charges.

When the defendant enters a guilty plea, the prosecutor will agree at the same time that the defendant may withdraw that plea in 90 days if the defendant completes all of the requirements of the diversion program.

The court will then find the defendant guilty and will impose on the defendant an appropriate sentence for the charge or charges. Enforcement of that sentence will be stayed for 90 days.

Within 90 days after entering the plea, the defendant must:

1. (a) Complete an alcohol-education or drug-education class, and (b) attend a treatment program for alcohol or drug dependency if directed to do so by the court's probation department;
2. Complete 20 hours of community service under the direction of the court's probation department;
3. Report to the probation department as scheduled, and notify the probation department about any address changes and any events that affect the participant's ability to complete the program;

4. Refrain from committing any other criminal offense or any drug-related or alcohol-related traffic offense while participating in the program;
5. Submit to drug or alcohol testing whenever directed to do so by the probation department, and agree that any failure to submit to those tests or any illegal drug or alcohol use while in the program will result in the defendant's removal from the diversion program;
6. Pay the \$150.00 supervision fee, pay the cost of the appropriate drug or alcohol class, pay the cost of any drug or alcohol assessment, pay the full amount of any restitution owed to any victims of the offense(s), and pay any court costs associated with the case.

Once the 90-day period following the defendant's guilty plea has expired, the court will either (1) approve the defendant's request to withdraw the guilty plea and will dismiss the case against the defendant if the defendant has complied with the requirements of the program, or (2) enforce the previously suspended sentence if the defendant has not complied with the requirements of the program.

Rule 212: Diversion Program for Certain Theft and Unauthorized-Use Offenders

The court's diversion program for theft and unauthorized-use offenders is intended to provide a short period of supervision and education to those persons who (1) have been charged with certain theft-related misdemeanor offenses and (2) are willing to accept responsibility for their misconduct. The program is aimed at first-time offenders. Those who successfully complete the program will not have a criminal conviction on their records. The goal of the diversion program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.

The program is open to first-time offenders (persons who have not already participated in a diversion program and who have not been convicted as an adult in this or other courts for any other criminal activity) whose pending misdemeanor charges are limited to any or all of the following: (1) Theft under Section 2913.02 of the Revised Code or comparable municipal ordinances, (2) Unauthorized Use of Property under Section 2913.04 of the Revised Code or comparable municipal

ordinances, (3) An attempt to commit either or both of those offenses under Section 2923.02 of the Revised Code or comparable municipal ordinances, or (4) Complicity in the commission of either or both of those offenses under Section 2923.03 of the Revised Code or comparable municipal ordinances.

The program is not available to any defendant who (1) is accused of stealing or attempting to steal firearms or other weapons, (2) used a firearm or other weapon in any way while committing the charged offense, or (3) harmed or threatened to harm anyone while committing the charged offense.

If the prosecutor (1) confirms that a defendant is eligible for the program and (2) recommends that the defendant participate in it, the Court will then ask the defendant if he or she wishes to participate in the program. Before making the recommendation, the prosecutor must consult any victim of the alleged crime(s) and must consider any victim's views. Admission to the program is not automatic, and the assigned judge retains the discretion to reject the proposed participation of any given defendant.

If the prosecutor recommends that the defendant participate in the diversion program, if the defendant wishes to do so, and if the assigned judge approves the defendant's participation, the defendant must – at an arraignment or a pretrial hearing – do all of the following:

1. Waive, in writing, his or her right to a trial and – if not represented by an attorney – the right to be represented by an attorney;
2. Agree, in writing, to pay the diversion program fee (which is listed on the court's cost schedule posted at www.municipalcourt.org) for supervision services associated with the diversion program, as well as any restitution owed to the alleged victim and any other court costs for the case; and
3. Enter a guilty plea to the charge or charges.

When the defendant enters a guilty plea, the prosecutor will agree at the same time that the defendant may withdraw that plea in 90 days if the defendant completes all of the requirements of the diversion program.

The court will then find the defendant guilty and will impose on the defendant an appropriate sentence for the charge or charges. Enforcement of that sentence will be stayed for 90 days.

Within 90 days after entering the plea, the defendant must:

1. (a) Complete an appropriate theft-related education class, such as a class on the social and economic consequences of shoplifting and on effective ways to control the impulse to steal, and (b) attend any additional theft-related or impulse-control treatment program if directed to do so by the court's probation department;
2. Complete 20 hours of community service under the direction of the court's probation department;
3. Report to the probation department as scheduled, and notify the probation department about any address changes and any events that affect the participant's ability to complete the program;
4. Refrain from committing any other criminal offense or any drug-related or alcohol-related traffic offense while participating in the program;
5. Submit to drug or alcohol testing whenever directed to do so by the probation department, and agree that any failure to submit to those tests or any illegal drug or alcohol use while in the program will result in the defendant's removal from the diversion program;
6. Pay the \$150.00 supervision fee, pay the cost of the appropriate theft-related class, pay the full amount of any restitution owed to any victims of the offense(s), and pay any court costs associated with the case;
7. Cooperate with the prosecutor in any criminal case against any co-defendants, and testify honestly in any court hearings involving those persons.

Once the 90-day period following the defendant's guilty plea has expired, the court will either (1) approve the defendant's request to withdraw the guilty plea and will dismiss the case against the defendant if the defendant has complied with

the requirements of the program, or (2) enforce the previously suspended sentence if the defendant has not complied with the requirements of the program.

Rule 213: OVI Specialized Docket

Rule 213.10 Creation of Specialized Docket

Effective September 1, 2015, the Court establishes the “Delaware Municipal OVI Specialized Docket.” This specialized docket is created pursuant to the authority and requirements under Rules 36.20 through 36.29 of the Rules of Superintendence for the Courts of Ohio. The goals and objectives of the program are to provide supervision and effective treatment for certain OVI offenders and to reduce recidivism rates of those offenders.

Rule 213.11 Eligibility for Admission to the OVI Docket

The OVI Docket (Docket) is a program for individuals charged with operating a vehicle under the influence of drugs or alcohol (OVI) or physical control of a vehicle under the influence of drugs or alcohol (PCI). The target population and legal criteria are set out in the Program Description, which is incorporated and adopted by reference. In general, the Docket is intended for offenders with one or more OVI conviction within the last twenty (20) years or a non-OVI misdemeanor conviction involving the use or abuse of alcohol and/or drugs of abuse who also meet the following criteria:

1. The offender does not have a pending felony;
2. The offender understands and appreciates the consequences of the legal proceedings;
3. The offender has legal counsel;
4. The offender may be appropriately treated in the community and is receptive to treatment for alcohol/substance abuse/addiction;
5. The offender does not pose a significant risk of harm to the staff of the court, treatment providers, or other persons working with the Docket Team; and

6. The offender has a diagnosis of substance use disorder as defined in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM- and subsequent revisions).

Rule 213.12 Victim Notification

The victim notification provision of Revised Code Chapter 2930 shall be followed where applicable.

Rule 213.13 Referral to the Docket

The Court, as a condition of bond, may order an offender to submit to screening for admission to the program.

Rule 213.14 Screening and Assessment; Confidentiality

The Docket Coordinator will screen offenders for legal eligibility for admission. If the Docket Coordinator determines that the offender meets the legal criteria and may be appropriate for admission to the Docket, the Docket Coordinator will file a Motion for Assessment and request an order referring the offender to an appropriate treatment provider for a diagnostic evaluation. Defense counsel will receive a copy of the Motion for Assessment.

Any statements made by the offender during the evaluation or screening process are confidential, except for statements required to be disclosed by statute to a law enforcement or other agency.

Rule 213.15 Admissions to the Docket

The Docket is a voluntary, post-conviction program. Admission to the Docket is made as a condition of community control. If the Docket Coordinator has made a recommendation for admission, defense counsel may file a Motion for Admission. The motion should be filed before a pretrial conference is held in the case. The Motion for Admission to the Docket can be found on the Delaware Municipal Court website under the “OVI Docket” tab.

Rule 213.16 Docket Assignment

Cases will be assigned to the judge overseeing the Docket when an offender enters a guilty plea and is admitted to the Docket. Once admitted, an offender is

permanently assigned to the judge overseeing the Docket regardless of the outcome of the participation in the program.

Rule 213.17 Docket Case Management

The offender (now “participant”) will be referred to treatment providers based on the recommendation of the diagnostic evaluation. Treatment services to participants will be expedited pursuant to a Memorandum of Understanding with the treatment providers. The Community Control Officer will provide each participant with an individualized court services plan and a copy of the Participant Handbook. The Docket Team, consisting of the Judge overseeing the Docket (Judge), Docket Coordinator, Community Control Officer, and representatives of treatment providers, will monitor the participant’s compliance with the terms of the treatment plan and the court services plan. The Judge will schedule regular status review hearings to monitor participant’s compliance with the original orders, including treatment, in accordance with the Docket program. The Docket Coordinator, Community Control Officer, and treatment providers will obtain and present information at the status review hearings regarding the participant’s progress. Requirements of the program are set out in the Program Description, the Participant Handbook, and the Participation Agreement, as amended from time to time, all of which are incorporated and adopted by reference.

Rule 213.18 Unsuccessful Terminations

Common behaviors that can lead to unsuccessful termination include but are not limited to the following:

1. Persistent noncompliance with treatment.
2. Resistance to treatment.
3. New serious criminal or OVI conviction.
4. Failure to comply with conditions of the treatment plan.
5. Failure to comply with conditions of the court services plan.

The negative consequences of an unsuccessful termination include:

1. Loss of future eligibility for the Docket.

2. Legal action including revocation of community control.
3. Imposition of jail or other restrictions.

Rule 213.19 Neutral Discharge

The following events or actions may lead to a neutral discharge from the Docket:

1. A serious medical condition.
2. Other factors that may keep the participant from meeting the requirements for successful completion.

Upon neutral discharge it will be determined by the Judge whether the participant will continue on community control.

Rule 214: Delaware Mission Court, a Veterans Treatment Court

Rule 214:10--Creation of Specialized Docket

The Delaware Mission Court (DMC) was created to provide Veterans involved in the Delaware Municipal Court the necessary treatment, services, and support so that they may lead stable, law-abiding, and healthy lives as positive and productive members of the community. The target population and legal criteria are set out in the Program Description, which is incorporated and adopted by reference.

According to the requirements set forth in Sup.R 36.20 through 36.29 the Delaware Municipal Court established the Delaware Mission Court in January 2018 in order to increase the number of offenders with past military service that access available resources provided by the United States Department of Veterans Affairs and successfully complete the Delaware Mission Court requirements.

214:11--Placement into the Delaware Mission Court

Identification of defendants for the DMC can occur initially when a defendant has been arrested and/or officially charged. The procedure is informal and may be employed at any stage of the proceedings. To be eligible for the DMC, a defendant must meet all legal and clinical criteria as stated below:

Legal Eligibility Criteria

- Defendant must have misdemeanor charges pending in Delaware Municipal Court.
- Defendant must be a Veteran. The Delaware Municipal Court considers the defendant to be a Veteran, if the defendant has previously served or is currently serving in the United States Military.
- Defendant must plead guilty or be found guilty and agree to be placed on supervised probation through the DMC.
- If the prosecutor decides to place the defendant in a diversion program, the defendant can plead guilty and must agree to be placed on supervised probation through the DMC.

Clinical Eligibility Criteria

- Defendant must have a clinical diagnosis of substance dependence, mental illness, traumatic brain injury, post-traumatic stress disorder, or a co-occurring disorder.
- Defendant must not be a risk to court staff, family, or the community.
- Defendant must be willing to go to treatment and agree to comply with the recommendations of his or her service providers based on the assessment reports.

214:12—Victim Notification

The victim notification provisions of Revised Code Chapter 2930 shall be followed where applicable.

214:13—Screening and Assessment

Upon receipt of referrals, the Mission Court Coordinator/Community Control Officer will provide the defendant with a copy of the Delaware Mission Court participant Handbook and an eligibility packet, which includes an Application for Veterans Treatment Court and Consent to Release Personal Information Form. These forms are to be completed and returned to the Mission Court Coordinator/Community Control Officer.

Upon filing the Application for Mission Court, a copy of the application shall be forwarded to the Delaware City Prosecutor. After reviewing the application, the Prosecutor will make a determination on legal eligibility for the program. The Prosecutor then will file a report of the results.

If the prosecutor deems the defendant not eligible for the DMC, the Mission Court Coordinator/Community Control Officer presents the information to the treatment team and the case is scheduled on the regular docket. If the prosecutor determines the defendant is eligible for the DMC, the defendant is scheduled for clinical assessments.

Assessment reports shall include treatment recommendations based on the appropriate level of care, confirm that the defendant meets the clinical eligibility criteria, and is appropriate for inclusion into the Mission Court. Based on all this information and in accordance with the written eligibility criteria, the DMC Judge has discretion to decide admission into DMC.

214:14--Case Assignment

Once the DMC Judge determines that the defendant is to be offered entry into the DMC and the defendant accepts, a journal entry is signed transferring the case to the DMC, a date for the defendant to plea is scheduled, and a notice to appear in DMC is given to the defendant and his or her attorney. The DMC Judge shall have the primary responsibility for case management of cases in the DMC.

214:15—Case Management

Defendants accepted into the DMC will participate in appropriate treatment services. These services may also include but are not limited to obtaining stable housing and reliable transportation; completing high school or obtaining a GED; participating in vocational assessments and entering appropriate training; and obtaining and maintaining employment, as able. The requirements outlined in the DMC Program Description, Participant Handbook, and Participation Agreement are incorporated here by reference.

The DMC will conduct hearings and meet at least twice a month.

214:16--Termination from DMC

Upon successful completion of their case plan, the defendant graduates from the DMC. If the defendant is unsuccessfully terminated from the DMC, a hearing is scheduled before the DMC Judge and notice to appear is sent to the defendant and his or her attorney. At the conclusion of the hearing, if the DMC Judge finds that the defendant shall be unsuccessfully terminated from the DMC, any jail sentence and fine suspended may be imposed. A defendant may be neutrally discharged from the DMC if the defendant is no longer capable of completing the program.

Rules Unique to Civil Cases

Rule 301: Responses to Motions

Unless the court sets a different deadline, any response to a motion for summary judgment must be filed within 14 days after the filing of the motion.

Any response to any other type of motion must be filed within 7 days after the filing of the motion, unless a longer time period is granted by the court or is permitted by the Ohio Rules of Civil Procedure.

Rule 302: Trial Exhibits; Requests for Jury Views

The parties should bring to any pretrial conferences all of the exhibits that they hope to offer into evidence at the trial.

Any party requesting a jury view should notify the court and all other parties about that request at least 21 days before the trial date.

Rule 303: Trial Briefs

Trial briefs and proposed jury instructions should be filed by each party at least seven days before a scheduled jury trial.

Parties are also encouraged to file trial briefs in non-jury cases if the parties feel that those briefs would be helpful to the court in resolving any disputed factual or legal issues in the case.

Rule 304: Mediation

The “Ohio Uniform Mediation Act” under Revised Code Chapter 2710 and Rule 16 of the Supreme Court of Ohio Rules of Superintendence is incorporated herein.

304:10-- Definitions

“Mediation” is any process by which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.

“Mediator” is any neutral and impartial individual who conducts a mediation. Mediators are independent contractors not employed by the court.

304:11—Domestic Violence

Per Superintendence Rule 16.21 the use of mediation is prohibited (A) as an alternative to the prosecution or adjudication of domestic violation; (B) in determining whether to grant, modify, or terminate a protection order; (C) in determining the terms and conditions of a protection order; and (D) in determining the penalty for violation of a protection order.

304:12—Referral to Mediation

All small claims cases may be referred to mediation. All other civil case shall be reviewed by the assigned judge or designee for referral to mediation. Mediation services may be provided in small claims cases at no cost to the parties. When a plaintiff files a small claims complaint, the court will schedule an Initial Trial/Mediation Date and a Final Trial Date. If both parties appear for the Initial Trial/Mediation Date, they shall participate in the mediation with a mediator who meets the requirements set forth in the “Ohio Uniform Mediation Act” under Revised Code Chapter 2710 and Rule 16 of the Supreme Court of Ohio Rules of Superintendence. If the parties do not settle the dispute in mediation, the case will proceed to trial as assigned. If the case does settle at mediation, the inconvenience of a full-scale trial for the parties and their respective witnesses is avoided. If a defendant fails to appear for either trial date, the court may enter judgment on evidence submitted at that time. If a plaintiff fails to appear, the matter is subject to dismissal.

If the parties to any other civil case are directed by the court to participate in mediation, the parties must, at their expense, select a mediator from the court's roster of approved mediators or as otherwise directed or agreed. The list of approved mediators is posted on the court's web page (www.municipalcourt.org). If the parties fail to select a mediator as ordered, the court may designate a mediator.

304:13—Mediation Case Summary

Not fewer than five days before the first mediation session, each party shall submit to the mediator a summary of facts and circumstances of the dispute, any arguments in support of their respective positions, the status of their compliance with any discovery requests, the amount of damages requested, and a summary of any prior settlement negotiations between the parties. The parties shall promptly provide whatever additional information and materials they deem necessary to aid the mediator in understanding the dispute. The mediator may request that the parties provide clarification or additional information.

Parties may, but are not required, to have an attorney present at mediation to advise them. With the consent of the mediator, the parties may also designate other individuals to accompany them and participate in mediation. When a corporation or other legal entity is a party to mediation, a person with the authority to settle the case on behalf shall participate in the mediation session.

304:14 – No Advice

No statement by a mediator in mediation may be construed as giving legal advice. Materials for legal services and other support services may be provided to all parties, including victims and alleged victims of domestic violence. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of, or referral to, such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

304:15 – Mediation Report and Confidentiality

The mediation process is confidential. All mediation communications are privileged as described in Revised Code Sections 2710.03-2710.05. Following mediation, the parties shall inform the court, in compliance with Revised Code Section 2710.06, who attended the mediation and whether the case settled. No

other information shall be directly or indirectly communicated by the mediator to the court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure. The mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

304:16 – Comments or Complaints

Following mediation, the parties may provide written comments and complaints regarding the performance of the approved mediator through written statement delivered to the court's designee.

304:17 – Settlement Agreement

If a settlement is reached, the parties shall notify the court in writing. The matter shall be dismissed subject to the jurisdiction of the court to enforce the agreement and the parties' consent to ordinary mail service of an aggrieved party's motion for relief.

Rule 305: Complaints in Forcible Entry and Detainer Cases

A complaint seeking the eviction of a tenant or resident must contain a reason for the requested eviction. A copy of the notice required by Section 1923.04 of the Ohio Revised Code must be attached to the complaint, as must a copy of the written instrument, if any, upon which the eviction claim is founded.

Rule 306: Small Claims

A small claims action may be commenced by filing a complaint in accordance with Section 1925.04 of the Ohio Revised Code. A small claims handbook is available from the clerk and is posted on the court's web page at www.municipalcourt.org. The clerk cannot provide legal advice.

A defendant is not required to file an answer or a statement of defense. A timely counterclaim or crossclaim may be filed. All pleadings will be construed to accomplish substantial justice. If a defendant fails to appear for a hearing, a judgment may be entered against the defendant.

Rules for the Public and Parties Concerning the Court Building and the Recording of Court Proceedings

Rule 401: Hours of Operation; Holidays

The court and clerk of court's office are open to the public each weekday from 8:00 a.m. until 4:30 p.m. Those offices are closed on New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, the afternoon of Little Brown Jug Day, Thanksgiving, the day after Thanksgiving, the afternoon of Christmas Eve, and Christmas.

Rule 402: Weapons in the Court Building

Law enforcement officers who enter the court building and who are acting within the scope of their employment while at the court may carry their weapons, but law enforcement officers who visit the court outside the scope of their employment – whether as parties to court cases or as interested observers – are not permitted to carry weapons.

No other weapons are permitted at the court other than those carried by court security officers or community control officers.

Rule 403: Proper Conduct in the Courtrooms

Cell phones, pagers, and other electronic devices should be silenced in the courtrooms.

Food should not be eaten in the courtrooms when the court is in session.

Respectful attire should be worn in the courtrooms, and a judge, magistrate, or court security officer may instruct any person wearing inappropriate clothing to leave a courtroom.

Rule 404: Recordings of Court Proceedings

All proceedings at the court are recorded using the court's audio and video equipment. Copies of those recordings can be made by the court for parties or the public. The fee specified in the court's cost schedule will be charged for those copies.

Parties or others who wish to create a typewritten transcript of proceedings at the court must retain the services of a court reporter. Court reporters are permitted to transcribe a particular hearing as it occurs in the courtroom, or they may watch and listen to the video and audio recording of a particular hearing after the hearing has taken place. All costs associated with the court reporter's services must be borne by the party employing the court reporter.

Rules for the Administration of the Court

Rule 501: The Clerk May Collect Delinquent Fines and Costs with the Assistance of a Private Collection Agency

The clerk of the court is authorized to contract with an outside service provider for the collection of delinquent fines and court costs. Any person or entity that does not pay fines and costs by a deadline that the court has set may be charged additional court costs in connection with that debt-collection process.

Rule 502: The Clerk May Transfer Out-of-County Criminal and Traffic Cases

The clerk of the court is authorized to transfer a criminal or traffic case to the proper municipal court if the charging instrument indicates that the alleged offense occurred in another county, and that transfer may be affected without a judicial order or a motion from the prosecutor.

Rule 503: Maintenance and Destruction of Records

The Rules of Superintendence for the Courts of Ohio list time periods during which court records and other documents must be maintained. Once the minimum time period for the maintenance of a record or other document has passed, the clerk of the court may destroy that record or document without further order from the court.

Audio records of court proceedings will be retained for five years.

Community control documents concerning a criminal or traffic defendant will be retained for ten years after community control ends in the case.

Any questionnaire completed by a person summoned as a potential juror will be retained for one year after the end of the calendar year in which the juror was summoned to appear for jury service.

Civil case files in which all claims have been voluntarily dismissed will be retained for 16 years after the date of dismissal.

Civil case files in which a money judgment has been ordered or in which the court has ordered no payment other than the payment of court costs will be retained for 16 years after the later of the date of final judgment or the satisfaction of the judgment.

Civil case files in which a money judgment has been ordered and in which no post-judgment collection activity appears to have occurred will be retained for 25 years after the date of final judgment.

Civil case files in which a money judgment has been ordered and in which post-judgment collection activity appears to have occurred will be retained for 25 years after the last filing in the case by the judgment creditor.

Unclassified misdemeanor traffic and criminal case files will be retained for 50 years after the date of final judgment.

Rule 504: Jury Management Plan

This court adheres to the Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio in August, 1993.

The opportunity to serve on a jury at the court will not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or disability.

Persons who are summoned for jury service will be paid the daily rate that is set by the Delaware County commissioners. All compensation payable to a juror or potential juror is paid after that person's term of jury service has ended. Persons summoned for jury service are not compensated for their travel expenses.

Typically, jury service will last for one month, and prospective jurors are required to call the court or check the court's website (www.municipalcourt.org) on selected days during that month to learn whether or not they are needed for jury service the following morning. For most jury trials at the court, 70 persons will be summoned for jury service.

Eligible persons who are summoned for jury service may be excused from that service only if a judge determines that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or if a judge or a court official determines that their service on a jury would impose a continuing hardship on them or on members of the public. Persons who wish to be excused entirely from jury service should present their requests to the court in writing, together with any additional documents that support the request. Those requests and the supporting documents will be retained by the court for two years. Unless a judge or court official grants an excuse, a person summoned for jury service must report for that service as directed by the court.

Excuses from jury service may be warranted for:

1. Any person who suffers from a substantial physiological or psychological impairment.
2. Any person who has a scheduled vacation or business trip during a time of potential jury service.

3. Any person for whom jury service would constitute a substantial economic or personal hardship.
4. Any person who has served on a jury within the past year.

A juror handbook posted on the court's web page (www.municipalcourt.org) provides additional information about jury service at the court.

Rule 505: Magistrates

The court may employ one or more magistrates, and those persons are authorized to perform any duties permitted by the Ohio Rules of Civil Procedure or the Ohio Rules of Criminal Procedure.