

# **PATASKALA MAYOR'S COURT**



## **LOCAL COURT RULES**

**REVISED FEBRUARY, 2009**

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# **COURT RULES PATASKALA MAYOR'S COURT**

## **RULE 1.00 SCOPE AND EFFECTIVE DATE**

These rules are adopted as local Rules of Court governing practice and procedure in the Pataskala Mayor's 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 "Pataskala Mayor's Court Rule (i.e. (M.C. Rule 1.00)". They are effective as of March 1, 2009, and govern all proceedings filed subsequent to that date. These rules may be amended from time to time by orders of the Mayor or Magistrate.

## **RULE 2.00 COURT SESSIONS**

Mayor's Court shall be convened in regular session every Thursday at 3:00 p.m. (except holidays), for the arraignment of traffic and criminal cases. Trials shall also be scheduled on Thursdays after the arraignments are concluded or at the convenience of the Court in compliance with Ohio Revised Code §2945.71 et seq. Additional sessions may be convened when necessary as ordered by the Magistrate.

## **RULE 3.00 APPOINTMENT OF MAGISTRATE(S)**

The Mayor shall appoint a Magistrate to preside over Mayor's Court. In order to be appointed, a Magistrate must have served as an attorney for at least four (4) years with three (3) years of trial experience and complete the Mayor's Court training as required by law. The Mayor may also appoint one or more alternate Magistrate(s) who meet the same qualifications as the primary Magistrate.

## **RULE 4.00 CLERK OF COURT**

- A. The Clerk of Court will also hold the position of Office Manager. As such, he/she will be responsible to the Mayor and Administrator for duties as they may require in addition to those of Court Clerk.
- B. The Clerk of Court shall maintain such dockets, books of record and indices as are required by law as public hearing, utilizing microfilm and computers for storage whenever possible. The Clerk of Court shall also act as Traffic and Minor Misdemeanor Violations Bureau Clerk.
- C. The Clerk shall permit any person to make a copy of any papers filed, but original papers filed in any case shall not be removed from the office without authority of the Clerk.
- D. The Clerk of Court will receive and time stamp all documents including but not limited to, not guilty pleas, continuance, counsel withdrawals, appearance of counsel, discovery requests, motions to dismiss and any and all legal motions. The Clerk of Court will keep the original copy and it will become part of the official Court Record. The Clerk will place each stamped document in a case folder in chronological order as they are received. A docket entry of these documents will be entered into the Court Case Management System.

## E. Assignment of Case Numbers

The Clerk of Courts shall assign a case number to each complaint/ticket.

### **08TRD 00000**

TRD - Traffic  
CRB - Criminal  
TRC - OVI  
TRP - Parking

00000 - Represents the number of cases received consecutively, one defendant per case number, on a calendar year basis. When more than one charge is filed against an individual resulting out of the same incident, the charges will be listed as A, B, etc.

- F. Pursuant to O.R.C. §1907.43, the Clerk shall prepare and maintain a general index, a docket, and other records that the Mayor's Court requires, all of which shall be the public record of the Court. In the docket, the Clerk shall enter, at the time of the commencement of an action, the names of the parties in full, the names of counsel and the nature of the proceedings. The docket shall also include the degree of the violation and the section number of the Codified Ordinances in dispute. Under proper dates the docket shall note the filing of the complaint issuing of summons or the process and returns.
- G. The arraignment docket for Court appearances will be available at least three (3) business days before the assigned court date.
- H. Any case designated for a trial will be assigned a date at least two weeks in advance. If it is deemed necessary, a case may be set one week following arraignment. Notices of all dates and times for scheduled hearings or trials will be provided to trial counsel or to the defendant if he/she is unrepresented.
- The Prosecutor's Office will receive copies of the trial docket by Wednesday of the week pending a trial date.
- I. Pursuant to O.R.C. 1905.04, neither the Clerk nor a Deputy Clerk shall be concerned as counsel or agent in the prosecution or defense of any case before the Court.
- J. All information concerning pending cases which is not classified by O.R.C. 149.43 as public record is hereby designated as confidential. Disclosure of such information may result in action under O.R.C. 102.03.

## **RULE 4.01    TRANSFER OF CASES TO LICKING COUNTY MUNICIPAL COURT**

The Clerk is responsible for processing cases transferred to Licking County Municipal Court. If the case is being transferred for an appeal (trial de novo) the Clerk shall make a certified transcript of the proceedings and deliver such transcript together with the original papers to Licking County Municipal Court within fifteen days from the rendition of the Judgment appealed from. In all other cases of transfer, the Magistrate shall certify all papers filed in the case.

## **RULE 5.00 FORMS OF PAPER FILED**

Filing of pleadings and other papers: All papers offered for filing with the Court shall be typewritten or printed on 8 and one-half by 11 inch paper. Original documents attached or offered as exhibits are exempt from the requirements of this rule. Only legible copies of documents will be accepted. All papers accepted for filing with the Court shall be time-stamped.

Filing of pleadings and other papers by electronic means: A document filed with the Clerk by facsimile transmission shall be accepted as the original filing, provided the person sending the document by facsimile transmission complies with all the requirements set forth in this rule.

- A. The person filing a document by facsimile transmission need not file with the Clerk the same document with original signatures, but must have the document with original signatures as well as the original copy of the facsimile cover sheet used for the subject filing available for production upon request of the Court.
- B. All documents filed by facsimile transmission pursuant to this rule shall be considered filed with the Clerk as of the date and time the facsimile transmission is received by the Clerk. The risks of transmitting a document by facsimile transmission to the Clerk shall be borne entirely by the sender.
- C. The Clerk may accept for filing by facsimile transmission any document except those for which the Clerk is required to collect a specific filing fee pursuant to statute or court rule or to effectuate service and summons.
- D. The person filing a document by facsimile shall provide therewith a cover page containing the following information: (i) the caption of the case; (ii) the case number; (iii) the magistrate; (iv) a description of the document being filed; (v) the transmitting facsimile number; and (vi) an indication of the number of pages included in the transmission, including the cover page. Attorneys sending facsimile transmissions must include their Ohio Supreme Court attorney registration numbers.
- E. Facsimile 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. For filings regarding criminal and traffic matters, the facsimile number is (740) 927-0228. Transmissions sent to any other location are not covered by or permitted under this rule.
- F. This rule has been adopted solely for the convenience of those filing documents with the Clerk, and neither the Clerk nor the Court assumes any new or additional responsibilities, obligations or liabilities by virtue of this rule, except as expressly provided for herein. This rule pertains only to the method of filing; it does not override, alter, amend, revoke or otherwise change any local rule or any provision of Ohio law.

## **RULE 6.00 COSTS**

Court Costs shall be determined from time to time by the presiding Mayor as amendments to these Rules (see Exhibit A) by ordinance as approved by City Council.

## **RULE 6.01 FINES**

Court fines shall be determined from time to time by the presiding Mayor as amendments to these Rules (See Exhibit B) by ordinance as approved by City Council.

## **RULE 6.02 BONDS**

County bonds shall be determined from time to time by the presiding Mayor as amendments to these Rules (See Exhibit C) by ordinance as approved by City Council.

## **RULE 6.03 REFUNDS**

Refunds shall only apply to amounts of five dollars (\$5.00) or more.

## **RULE 6.04 ACCOUNTING AND DISBURSEMENTS**

The Clerk is responsible for receipting, posting and balancing all court related court costs and fines. Additionally, the Clerk is responsible for disbursing those funds back to the state and the City of Pataskala as directed by law and any other agency as may be required by law in the future.

## **RULE 6.05 BALANCING OF MONTHLY STATEMENT**

The Clerk will be responsible for balancing the monthly bank statement against all receipts and disbursements.

## **RULE 7.00 DUTIES OF COUNSEL**

A. DESIGNATION OF TRIAL COUNSEL. Attorneys, not defendants, will designate their capacity as trial counsel on all papers filed with the Clerk and shall include their office address, zip code, and telephone number. Normally, a law firm should not be named as trial attorney. However, substitution of counsel within the same law firm at hearings is authorized.

B. WITHDRAWAL OF COUNSEL. Counsel shall be allowed to withdraw only with consent of the Magistrate from counsel responsibility in cases where counsel has been designated. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, certificate of service on opposing counsel and client. The time and date of trial, if set, shall also be included. Withdrawal of counsel will not be approved if application is made within three (3) working days of the trial date except for good cause shown. Approved withdrawal entries will be mailed immediately by the withdrawing counsel to the client's last known address.

C. MOTIONS PRACTICE. All motions, except those normally made at the trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Criminal Procedure. Motions will be supported by Memoranda of Law containing applicable statutory and case law citations. Copies of significant decisions shall be attached to the original filing only.

A date and time for oral hearing on motions must be obtained from the Clerk of Court. Parties wishing to respond in writing to such motions shall do so not later than the fourteenth (14th) day following service of the motion or three days prior to the oral hearing date. All motions not heard or decided prior to trial will be disposed of at trial. In MOTIONS TO SUPPRESS, the grounds must be stated with particularity and the items of evidence in question shall be specified. Any motions filed which are not in compliance with this rule may be summarily overruled.

D. CONTINUANCES. Request for a continuance shall be by written motion and will only be granted upon showing of good cause. All requests shall be served on opposing counsel or party. Proposed entries should accompany the motions with blanks for the new trial time and date if agreed to by opposing counsel. No requests for continuance will be considered if made less than three (3) business days before trial except for circumstances which by reasonable diligence could not be determined three (3) or more business days prior to trial.

## **RULE 8.00 VIOLATIONS BUREAU**

A Traffic Violations Bureau is hereby established in accordance with Ohio Traffic Rule 13. The Clerk of Court is appointed to be the Violations Clerk, who shall collect fines paid to, give receipts for, and render accounts of the Bureau. The Clerk has authority to process and dispose of those traffic offenses for which no Court appearance is required by law.

In addition to violations that require a court appearance pursuant to Ohio Traffic Rule 13, the following offenses are mandatory appearances in the Pataskala Mayor's Court.

1. All speeding offenses occurring in a school zone.
2. A speeding offense of 30 mph or more over the posted speed limit.
3. A third moving traffic offense within a twelve (12) month period, (excluding an operator's license that is expired less than six (6) months).
4. Resisting Enforcing Official.
5. Failure to Display Operator's License.
6. Disorderly conduct (minor misdemeanor).
7. Violations involving damage to personal or real property or another person or entity where insurance is not provided or later determined to be invalid.
8. Parking in handicap area.

The schedule of fines and costs which shall be charged by the Violations Bureau is established and published as Exhibits A and B. These schedules of fines as well as a Court-approved statement of defendant's rights shall be displayed prominently at the counter of the Violations Bureau.

When a defendant fails to appear or pay the fine on an offense which is a minor misdemeanor, the Clerk of Court, with Magistrate's approval, is empowered to accept any payment made by mail which is reasonable in light of the nature of the charge and all other circumstances. There will be a twenty dollar late fee added to the total amount due. Additionally, if the payment is less than the total amount due, there will be a twenty dollar fee added for the payment plan.

If payment is accepted pursuant to this rule in an amount less than one set by the fine schedule, all costs shall automatically be taken out and the remaining amount will be applied to the fine. This will include the twenty dollar late fee.

If a defendant fails to appear for court or fails to fully pay fines and/or costs, the Magistrate may issue a warrant for their arrest, warrant block on their driver's license registration, driver's license forfeiture. If a defendant subsequently pays all fines and costs, the warrant, warrant block, forfeiture will be set aside by virtue of this payment.

In accordance with the Ohio Rules of Criminal Procedure, Rule 4.1, a Minor Misdemeanor Violations Bureau is established. The Clerk of Court is appointed to be the Violations Clerk, to collect fines, give receipts therefore, and to render accounts of the Bureau.

The schedule of fines and costs and a Court approved statement of defendants' rights shall be prominently displayed at the counter of the Violations Bureau.

On a weekly basis, the Clerk of Court shall transmit to the Bureau of Motor Vehicles via electronic means the Court abstract covering convictions, license forfeitures, license releases, and modifying orders for all Mayor's Court cases.

## **RULE 9.00 MISDEMEANOR SUMMONS AND ARREST WARRANTS**

The Court adopts the following procedure for the issuance of summons or arrest warrants for a criminal offense classified as a misdemeanor under the Pataskala Codified Ordinance and Ohio Revised Code.

1. All misdemeanor complaints shall be issued on summons unless an arrest warrant is authorized or requested under this rule.
2. When a defendant fails to appear pursuant to a summons issued to that person, the Magistrate may issue a warrant.
3. A warrant shall be set aside only for good cause. The Magistrate shall enter in the file the date and reason for the recall of a warrant.
4. Any person arrested (ordered-in) on a warrant for failure to appear at a designated time for arraignment, trial or enforcement of sentence on a minor misdemeanor for which the fine, fees and costs are prescribed in a published schedule adopted by this Court, has the option of either immediately and voluntarily paying such fine and any fees and costs which have accrued in the case, or of being slated. The person shall be advised of this option by the arresting officer at the time of arrest. If the person elects to make such payment he/she shall be escorted by the arresting officer to the office of the Clerk of Court during normal business hours and, on making such payment, he/she shall be released from custody. If the person elects not to make such payment, states that he/she is unable to do so, or the clerk's office closed, he/she shall be slated and processed at the Licking County Jail.

## **RULE 9.01 COMPLAINT/ SUMMONS**

The complaint/summons is a written statement of the essential facts constituting the offense charged. It shall also state the numerical designation of the applicable statute or ordinance. It shall be made upon oath before any person authorized by law to administer oaths.

## **RULE 9.02 AMENDING COMPLAINT/SUMMONS**

If an error or omission in the original complaint/summons occurs, the correction can be submitted to the Court on or before the court date by submitting a "Request to Amend" form. This correction can also be requested verbally by the Prosecutor at the time of arraignment or trial.

## **RULE 10.00 APPOINTED COUNSEL IN INDIGENCY CASES**

Appointed counsel (Public Defender) will not be available in Pataskala Mayor's Court. When a defendant would qualify and request appointed counsel, his/her case will be transferred to Licking County Municipal Court.

## **RULE 11.00 COMMUNITY SERVICE**

The Magistrate may sentence a defendant to perform community service work in lieu of incarceration or fine in accordance with Ohio Revised Code 2951.02(H).

## **RULE 12.00 FORM ENTRY ERRORS**

Clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omissions may be corrected by the Court at any time and in the following manner: A Judgment Entry may not be changed without the express authorization of the Magistrate assigned to the case. The mistake or error shall be circled and the correction added to the entry and initialed by the Magistrate who originally signed the entry, unless the original signator has left; then the new Magistrate may make proper corrections. However, once a judgment entry has been time stamped, no alternations can be made without all parties being present.

## **RULE 13.00 BAIL/BOND AND BAIL/BOND SCHEDULE**

Pursuant to O.R.C. 2935.26(c) and Rule 46 of the Ohio Rules of Criminal Procedure, the purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings. All persons scheduled for Mayor's Court are entitled to bail.

A person arrested for a misdemeanor shall be released by the officer in charge or the Clerk of Court, on the defendant's personal recognizance in the amount specified in the bail schedule established by the Court. If the Clerk or officer in charge determines that the release on recognizance will not reasonably assure appearance as required, the defendant shall be eligible for release by posting a security bond, in the amount specified in the Court's bail schedule. (See Exhibit C).

A defendant need not be released on the defendant's own recognizance or upon the execution of a security bond if the defendant has a history of failure to appear when required in judicial proceedings, or if the defendant's physical, mental, or emotional condition appears to be such that the defendant may pose a danger to the defendant or others if released immediately. When a defendant is not released because of the defendant's physical, mental, or emotional conditions, and it appears that the defendant's release into the temporary custody of a responsible relative, friend, or other person will obviate the danger to the defendant or others, the defendant shall be released into such temporary custody on the defendant making a surety bond.

If a defendant is not released on the defendant's own recognizance, or upon the execution of a security bond, the defendant shall be given a hearing without unnecessary delay before the Magistrate who shall determine conditions of release. When a defendant is arrested pursuant to a bench warrant the defendant must be brought before the Magistrate for a hearing or post the full amount of the security bond.

## **RULE 14.00 COURT SECURITY**

All persons who enter the Pataskala Municipal Service Center building and wish to proceed into Mayor's Court are subject to the search of their person and possessions.

Weapons or other contraband may be confiscated. Those persons possessing weapons or contraband are subject to arrest if there is probable cause to believe a crime has been committed or if law otherwise permits. This Rule does not apply to police officers or security personnel who are on official business and not a party to a case before the Court.

## **RULE 15.00 VEHICLE RELEASE**

If a vehicle is seized in error and for good cause shown, the Prosecutor can authorize the conditional release of a vehicle subject to Magistrate approval on next available court date.