

**LOCAL RULES OF COURT**

**FOR**

**BRYAN MUNICIPAL COURT**

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# **GENERAL PROVISIONS**

**SCOPE AND APPLICABILITY OF RULES.** The Rules hereinafter set forth shall apply to the Bryan Municipal Court of Williams County, Ohio, for the conduct, government and management of business, operations, proceedings and other functions and services of the Court. The Court may amend and supplement the rules at any time.

The Rules are intended to supplement and complement the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, the Superintendence Rules of the Supreme Court of Ohio and other controlling statutes in their application and administration in proceedings in the Court.

**RULE 1.01 CITATION FORM:** These Rules of practice shall be known as the Bryan Municipal Court Rules of Court and each rule may be cited as “Bryan Rule” or “Local Rule” followed by the appropriate section number.

**RULE 1.02 HOURS OF SESSION:** The sessions of this Court shall, unless modified by the Trial Judge to meet emergency situations, begin at 8:30 A.M. and close at 4:30 P.M. Monday through Friday, each week except on those days designated by law as a legal holiday.

**RULE 1.03 SPECIAL NEEDS.** An interpreter will be provided for all court proceedings upon request. The expenses incurred by the court will be charged to the party or the case of the person requesting such services pursuant to Ohio Revised Code Section 2311.14.

The hearing impaired may converse with the Bryan Municipal Court via TDD located at Central Communications in Bryan, Ohio whose telephone number is 419-636-3151.

**RULE 1.04 FILING REQUIREMENTS:**

- (A) General:** No written complaint, motion, brief, memorandum of law or proposed journal entry shall be accepted by the Clerk for filing unless the same is filed with sufficient copies for service upon any other parties or counsel and indicates the name, address and phone number of the attorney filing the same, as well as the attorney’s Supreme Court registration number.

- (B) No pleadings shall be accepted for filing by the Clerk if said pleading does not contain a caption setting forth the name of the Court, the title of the action and case number.**
- (C) Form Size: All papers filed with the Clerk shall be on 8 ½" x 11" paper, with the exception of exhibits. All filings shall have a top margin of at least one and one-half inches (1 ½").**

**RULE 1.05 FACSIMILE FILINGS.**

- (A) As provided for under Civil Rule 5 (E), Civil Rule 73 (J), Criminal Rule 12 (B) and App R 13 (A), the Court will allow filing of pleadings and other documents through the Clerk of Court by facsimile transmission to 419-636-3417 subject to the following conditions:**

- (1) The rules apply to the civil, small claims, criminal, traffic and appellate proceedings in the Bryan Municipal Court.**

- (B) 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.**

- (C) 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) DEFINITIONS. As used in these rules, unless the context requires otherwise:**

- (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.**

- (E) COVER PAGE. The person filing a document by fax shall also provide therewith a cover page containing the following information:**

- (1) The name of the court;**
- (2) The title of the case;**
- (3) The case number;**
- (4) The assigned judge;**
- (5) The title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss);**
- (6) The date of the transmission;**
- (7) The transmitting fax number;**
- (8) An indication of the number of pages included in the transmission, including cover page;**
- (9) If a judge or case number has not been assigned, state that fact on the cover page;**
- (10) 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**
- (11) If applicable, a statement explaining how costs are being submitted.**

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

- (1) Enter the document in the Case Docket and file the document; or**
- (2) 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.**

**(G) 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.**

**(H) SIGNATURE. A party who wishes to file a signed source document by fax shall either:**

- (1) Fax a copy of the signed source document; or**
- (2) 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.**
- (3) A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.**

**(I) EXHIBITS.** 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) court 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.

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 (e.g., Plaintiff Smith’s Response to Defendants’ Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

**(J) TIME OF FILING.** 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.

**Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through facsimile equipment operated by the Clerk of Court.**

**The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.**

**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.**

**(K) FEES AND COSTS.** No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing.

**Additional fees shall be assessed for facsimile filings per the cost schedule attached hereto and marked as Exhibit A.**

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

**RULE 1.06 OVERPAYMENTS: Any overpayment to the Bryan Municipal Court in the amount of Ten Dollars (\$10.00) or less will be retained by the Bryan Municipal Court and remitted to the City of Bryan at the end of the month in which it was received.**

**RULE 1.07 WARRANTS & BONDS: Any law enforcement agency wishing to fax a copy of a Bryan Municipal Court warrant shall first secure the approval of the Municipal Court Judge. It is then the responsibility of the law enforcement agency that the warrant was issued to then to notify the receiver when that warrant is recalled by the Court.**

**Each law enforcement agency in Williams County has the ability to connect on-line with the computer system at Bryan Municipal Court. This service provides these agencies with the dispositions of all cases as well as all outstanding warrants from this Court. Anyone has the ability of accessing these records on the public access terminal located with the Bryan Municipal Court.**

**BONDS: Subject to the acknowledgment and consent being signed by the depositor on the bond form, all Criminal and Traffic Division bonds will be subject to forfeiture for all fines, costs restitution and any other financial obligations owed to the court.**

**In the Small Claims and Civil Divisions bond monies will be forfeited in payment of any financial obligations to the plaintiff and/or the court provided that the acknowledgment and consent has been signed on the bond form by the depositor.**

**Bryan Police Department has been designated as a bonding station. However, bonds being posted as surety bonds by a bondsman will only be accepted at Bryan Municipal Court during the hours of session previously noted.**

**RULE 1.08 FILES: The Clerk shall file together and carefully preserve in the Clerk's office all papers delivered and/or filed therein for that purpose, in every action or proceeding. The Clerk shall permit any party to an action or his/her attorney or agent to make a copy of any non-confidential papers filed with the Court, except depositions and bills of exceptions. Copies of all papers shall be furnished to the requester upon payment of any applicable fees.**

**RULE 1.09 COURT RECORD BOOKS: The Clerk of Court shall maintain separate civil and criminal records and dockets as required by Ohio Revised Code Section 1901.31(E). Nothing in this Rule prohibits recording and storage of the Court's dockets and records by microfilming or computerization as permitted by law.**



**The Orders of the Court in the dockets shall be validated by the original signature of the Judge. The dockets and the original papers filed shall be the final record of the cases of this Court. The Judge and the Clerk of Court shall authenticate records with their signatures, with the Court's seal attached. Any forms and stamps used shall be authorized by the Court.**

**The Clerk of Court may dispose of all files of cases in accordance with Sections 1901.41 of the Ohio Revised Code and retention policy of the Bryan Municipal Court which is hereby adopted, a copy of which is available at the Court.**

**RULE 1.10 RECORD OF PROCEEDINGS: All Court proceedings shall be recorded by any means and media approved by the Judge which includes but is not limited to digital audio and visual recording devices. Recording media of any type and description shall be retained for a time period as required by law. Copies of said recordings will be made available upon request and upon payment of all fees by the requesting party.**

**RULE 1.11 COURT DECORUM: As a matter of respect, everyone inside the courtroom must stand during opening and closing of Court. Proper attire is required of all. The Bailiff shall see that no one impedes or disrupts the orderly conduct of the business of the Court.**

**RULE 1.12 COURT COSTS AND SECURITY DEPOSITS, GENERALLY: Civil Court costs shall be paid at the time of filing to the Clerk of Court. Costs paid on all original filings (i.e. complaints, counter-claims, forcible entry and detainer actions, replevins, trusteeships, small claims complaints, third party complaints) are to be considered as a non-refundable filing fee. All fees are set forth on attached Exhibit A.**

- (A) Any request for a warrant on a party to a civil action that does not appear in court shall be filed in the form of a praecipe with the party's social security number and date of birth. Said praecipe shall be accompanied by a processing fee of \$25.00 for each warrant requested. Should the service fees exceed the processing fee, the party requesting the warrant will be billed for those amounts.**
- (B) The failure of a party in a civil action to advance the security for jury costs as provided herein at least fourteen (14) days prior to the date set for trial shall constitute a waiver of trial by jury.**
- (C) In all cases in which it shall be necessary to seize, move or remove or store or to provide a custodian for any goods or property seized under any writ or order issued by the Court, the Clerk shall require an additional deposit in such amount as is deemed necessary to cover all estimated costs and expenses to implement such writ or order. In addition, the party requesting such writ or order may be required to supply such labor at his expense, as the Clerk or bailiff deems necessary to enforce such writ or order.**

- (D) If at any time the Clerk determines, because of circumstances indicating extraordinary costs in any case, a deposit for costs in excess of the amounts specified herein should be made, the Clerk shall estimate such probable extraordinary costs and require an additional deposit commensurate therewith.**
- (E) Upon motion by any party or upon request of the Clerk or Bailiff, and upon a showing that the probable costs may exceed the deposit, the Court may order a further deposit to be made before additional proceedings are held.**
- (F) MISCELLANEOUS COSTS AND CHARGES: All other fees and costs to be taxed in any action or proceeding in this Court not specifically provided for by law pertaining to municipal courts or by administrative order or rule of this Court shall be the same as those set out in the Ohio Revised Code for similar services in Courts of Common Pleas.**

**RULE 1.13 WITHDRAWAL OF TRIAL COUNSEL:** Counsel of record shall be allowed to withdraw as trial counsel only upon consent of the Court. Except for a withdrawal request in open Court when a counsel's client fails to appear for a Court proceeding, no application for withdrawal will be considered unless (A) A written motion is presented which state the reasons for the application; (B) The motion contains a certification of service to opposing counsel; and (C) The withdrawing counsel represents that, if the motion is granted, a copy of the withdrawal entry will be mailed forthwith to the last known address of the client. A withdrawal of counsel after the case has been assigned for trial shall not be permitted, except for good cause shown and upon determination by the Court.

**RULE 1.14 MUNICIPAL COURT TRUSTEESHIPS:** The following rules and procedures are promulgated pursuant to Ohio Revised Code Section 2329.70 and will apply to all trusteeships filed after the effective date of these rules:

- (A) Upon the filing of a trusteeship, the debtor is required to provide the Court with a payroll check stub or payroll statement of earnings. No payment will be accepted from a debtor without a payroll check stub or payroll statement of earnings.**
- (B) Debtor's payments must be made either in cash or money order.**
- (C) Individuals with active trusteeship accounts must notify the Trustee Clerk within five (5) business days of any changes in work status, job or personal address.**
- (D) A trusteeship account will be automatically cancelled if there has been no payment received or no change in work status reported within thirty (30) days of the last recorded payment.**
- (E) Debtors must make a minimum payment of \$25.00 each month.**

- (F) Interest must be paid outside of the trusteeship of any interest bearing account listed on the trusteeship account.**
- (G) The only creditors which may be added to existing trusteeship accounts shall be those which were past due and owed by the debtor at the time of filing the trusteeship but were not listed due to mistake.**
- (H) A charge of \$3.00 per creditor will be assessed for each creditor added to the trusteeship account.**

**RULE 1.15 SMALL CLAIMS: Small Claims Court proceedings shall be conducted by the Small Claims Court in accordance with Ohio Revised Code Chapter 1925 and the guidelines specified herein.**

- (A) In all unliquidated damage claims where defendant appears personally or through counsel or files an answer, the case will be assigned to the Small Claims Court trial docket without further deposit of courts. Any written document received from the defendant before the hearing will be considered to be an answer and is to be considered as such in any application for default judgment.**
- (B) In all unliquidated damage claims in which the defendant has failed to appear or answer, the plaintiff shall have judgment in the same manner as provided in these local rules for the granting of a default judgment, regarding supporting documentation verified by affidavit or sworn testimony of the plaintiff.**
- (C) Once a hearing has been set, motions for continuance must be received in writing. Said motions should be filed at least five (5) days prior to the hearing unless otherwise approved by the Court.**
- (D) The Ohio Rules of Evidence do not apply to Small Claims Court proceedings, but certain rules of civil procedure to apply (see Ohio Revised Code Section 1925.16). No depositions or interrogatories shall be taken in small claims cases and all relevant evidence shall be admitted at the discretion of the Judge and/or Referee.**
- (E) At any hearing in Small Claims Court the parties are each responsible for providing the original and two copies (or adequate copies for all parties involved) of any exhibits which they plan to introduce.**
- (F) Plaintiff may file garnishments and other legal process/executions in order to enforce/collect any judgment received in Small Claims Court.**
- (G) Corporations shall be represented by counsel.**

**(H) TRANSFER TO CIVIL DOCKET: Motions to transfer the case to the regular civil docket filed by any party or cross-claims or counter-claims in the amount of \$3,000 or more will be referred to the Judge for ruling. In cases where motions to transfer a Small Claims Court case to the regular civil docket is granted, the party seeking the transfer shall pay the appropriate filing fee to the Clerk with the Motion to transfer, along with an appropriate judgment entry. Failure to pay the fee will cause the motion to transfer to be denied.**

# **RULES OF PRACTICE GOVERNING CIVIL CASES**

**RULE 2.01 CASE MANAGEMENT IN CIVIL CASES:** The purpose of this Rule is to establish pursuant to M.C. Sup. Rule 18, a system for civil case management which will achieve the prompt and fair disposal of civil cases.

**(A) SCHEDULING:** The scheduling of a case will begin when a civil case is filed and the Civil Division clerks shall perform the following steps:

**(1) Issue summons in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk shall immediately notify counsel. If counsel fails to obtain service of summons within six (6) months from the date of cause of action was filed, then the Clerk shall notify Counsel that the case will be dismissed without prejudice in ten (10) days unless good cause is shown to the contrary.**

**(2) After any responsive pleading is filed, the Clerk shall immediately schedule the matter for a pre-trial hearing and/or motion hearing.**

**(3) If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the Clerk shall notify the filing party that the matter will be dismissed pursuant to M.C. Sup. Rule 6 within ten (10) days unless good cause is shown to the contrary.**

**(4) When a file has been marked "settlement entry to come" and the entry has not been received within thirty (30) days then the Clerk shall notify the party that his case will be dismissed unless the entry is received within ten (10) days.**

**(B) MOTIONS:** All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. A proposed judgment entry for the Court's review and consideration should also be submitted with the motion.

**Opposing counsel shall file any response in opposition in writing, including citations to legal authorities and arguments within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless the time is extended by the Court.**

**There will be no oral hearings granted on said motions unless the Court deems it necessary.**

**No motion for summary judgment shall be filed in any case after it has been set for pre-trial or trial without leave of Court as provided in Rule 56 of the Ohio Rules of Civil Procedure.**

- (C) PRE-TRIALS:** For the purpose of this rule, “pre-trial” shall mean a Court supervised conference chiefly designed to produce an amicable settlement and to establish a case management schedule. The term “party” or “parties” used hereinafter shall mean the party or parties to the action, and/or his, her or their attorney of record.

**Any attorney or party to the action who fails to attend a scheduled pre-trial conference without just cause shown may be punished for contempt of Court.**

**Notice of pre-trial conferences shall be given to all parties or counsel of record by mail and/or by telephone from the assignment commissioner not less than fourteen (14) days prior to the conference. Pre-trials will generally be set within thirty (30) days after all responsive pleadings (i.e. answers, counter-claims, cross claims, Rule 12 motions, etc.) have been filed. Any application for continuance of the conference shall be addressed with the Judge.**

**Counsel attending the pre-trial conference must have complete authority to stipulate on items of evidence and must have full authority to settle the case. The primary purpose of the pre-trial shall be to achieve an amicable settlement of the controversy. In the pre-trial conference the parties and the Court will strive to narrow the legal issues, reach stipulations as to facts in controversy and determine cut off dates for discovery, motions and other pre-trial proceedings.**

**The Court may prepare a pre-trial order reciting the action taken at the pre-trial conference. The order, when filed, shall control subsequent proceedings in the case unless it is modified in order to prevent injustice to any one of the parties. At the pre-trial the Court shall, if applicable, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed.**

**If the case cannot be settled at the pre-trial conference the case will be set for trial.**

- (D) CONTINUANCES:** No party shall be granted a continuance of a trial, pre-trial or hearing without a written motion from the party or his counsel stating the reason for the continuance. Motions for continuance must also be accompanied with a judgment entry for the Court’s consideration.

**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 another court,**

**counsel shall attach a copy of said assignment notice to the motion for continuance. The case which was set first for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The granting of any other request for continuance of a scheduled trial, hearing or pre-trial is a matter within the discretion of the Trial Court.**

**If the written request for a continuance is not received prior to the scheduled court date, said request must be made on record on the scheduled date.**

**Only one continuance will be granted for cases assigned for a debtor's exam. Said exam must be held by the plaintiff during the scheduled court time or a new request for the examination must be filed along with the court costs pursuant to Exhibit A.**

- (E) JUDGMENT ENTRIES: Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry, if requested to do so by the Court. That entry shall be submitted to opposing counsel within ten (10) days of the decision. Opposing counsel shall approve or reject the entry within ten (10) days of receipt. Within thirty (30) days of the decision, the journal entry shall be submitted to the Judge for approval and signature. If a journal entry is not submitted within the time period stated the Court may prepare the journal entry.**

**Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within thirty (30) days after notice to the Court of settlement or the case may be dismissed for want of prosecution.**

**ALL JUDGMENT ENTRIES INCLUDING SETTLEMENT ENTRIES SHALL STATE WHICH PARTY WILL PAY THE COURT COSTS.**

- (F) Corporations shall be represented by counsel.**

**RULE 2.02 LANDLORD/TENANT ACTIONS: Ohio Revised Code Chapter 1923 shall govern landlord/tenant actions filed in this Court.**

- (A) The defendant shall be served a summons in accordance with Ohio Revised Code Section 1923.06. The hearing date will be set as close to twenty-one (21) days from the date of filing as possible. The service of summons shall be at least seven (7) days before the trial date. Return of service of summons shall be made as soon as practicable after filing the complaint.**

- (B) Either party may demand a trial by jury in accordance with Section 1923.10 of the Ohio Revised Code. Said jury demand must be filed no later than three (3) days**

**prior to the date set for trial. No continuances shall be granted longer than eight (8) days but for good cause and only in accordance with Ohio Revised Code Section 1923.08. Plaintiff and plaintiff's attorney if represented are required to be present in court at the time of the hearing or the case may be dismissed.**

- (C) If defendant fails to appear at the forcible entry and detainer (FED) hearing for possession of the premises, no default judgment on the first cause of action shall be ordered unless testimony is taken from the plaintiff or witness having personal knowledge regarding the proper form and service of any statutorily required notices and regarding the grounds for the request for restitution of the premises.**
- (D) A copy of all notices required to be served upon the tenants pursuant to Ohio Revised Code Chapters 5321, 5313, 3733 and 1923 or pursuant to federal regulations shall be attached to the complaint as well as any document required pursuant to Rule 10(D) of the Ohio Rules of Civil Procedure.**
- (E) When a second cause of action in an FED has been filed alleging money damages, after the issue of possession of premises has been determined, the case will be continued for defendant to answer within 28 days of service of the complaint. In cases where defendant files an answer the case will be set for pre-trial or motion hearing. If defendant fails to appear or otherwise defend, default judgment may be entered in accordance with these rules and the Ohio Rules of Civil Procedure.**
- (F) In FED cases based upon failure to pay rent where a counter-claim has been filed, the defendant shall be entitled to a single trial consolidating all claims in accordance with Ohio Revised Code Section 1923.061. To initiate this procedure, defendant must first serve a counter-claim upon plaintiff and file the same with the Clerk of Court before the trial date and shall deposit with the Clerk of Court all or part of the past due rent and rent becoming due during the pendency of the action, unless the Court waives the requirement for good cause. If the defendant complies, the case shall be continued no more than three (3) weeks for resolution of all issues between the parties.**
- (G) Rent escrow proceedings may be initiated pursuant to Ohio Revised Code Section 5321.07 or 3733.121 by filing an application with the Court and depositing with the Clerk all rent money due to the tenant's landlord. The bailiff shall serve the landlord by personal or residential service in accordance with Rule 4.1(2) or (3), Ohio Rules of Civil Procedure. A hearing shall be held within fourteen (14) days from the date of filing. At the hearing the tenant must prove by a preponderance of the evidence that before filing the application for rent escrow:**

- (1) Reasonable notice was given to the landlord;**



**(2) The landlord violated a statutory or contractual duty justifying the action; and**

**(3) The tenant was current in rent.**

**(H) If the tenant fails to satisfy the burden of proof at a rent escrow hearing the court shall proceed in accordance with Section 5321.09 (C) or 3733.122 (C) or (D) of the Ohio Revised Code in releasing to the landlord the rent on deposit, less costs.**

**RULE 2.03 WRITS: All requests for any writ to be issued must be made in writing and the appropriate filing fee paid to the Clerk before said writ will be issued.**

**RULE 2.04 DEFAULT JUDGMENTS: In a civil case, when the Defendant is in default for appearance or answer, judgment shall be rendered in accordance with Rule 55 (A) of the Ohio Rules of Civil Procedure.**

**(A) If the defendant has failed to plead or otherwise defend (having entered no appearance) the Court may grant a default judgment immediately upon written or oral motion in a case involving a liquidated claim, accompanied by an appropriate judgment entry.**

**(B) If the defendant has failed to plead or otherwise defend the Court may grant a default judgment in the amount of the prayer if the action is for recovery of money only arising out of damages to personal property and if an affidavit with supporting documentation signed by a party with actual knowledge is filed. Said documentation must verify that the prayer of the complaint reflects a reasonable cost of repairing the property or its diminution in value, whichever is less.**

**(C) In FED actions if the defendant has failed to appear or otherwise defend on the second cause of action, default judgment may be entered upon an oral or written motion which judgment is based upon a liquated claim and when the motion is accompanied by an affidavit with supporting documentation signed by a party with actual knowledge verifying that the amount is accurate. A second cause of action claiming unliquidated damages will be set for an assessment hearing.**

**(D) The party seeking relief by default judgment shall file with the motion an affidavit in compliance with the Soldier's and Sailor's Civil Relief Act, 50 U.S.C. Section 520(1). Failure to file the affidavit may render the judgment voidable as provided by federal law.**

**(E) If the defendant has entered an appearance in the action in accordance with Civil Rule 55(A) a hearing shall be set on the application for the default judgment**

**with defendant or defendant's representative being given at least fourteen (14) days notice before the hearing date.**

- (F) In a case seeking default judgment based upon a contract, account or note with a specified interest rate, interest shall accrue at the appropriate rate until date of judgment, when interest accrued will be added to the principal due. Upon date of judgment, interest will accrue at the statutory rate of interest as provided by Ohio Revised Code Section 1343.03.**
- (G) A default judgment may only be vacated in accordance with Rule 60 of the Ohio Rules of Civil Procedure.**

**RULE 2.05 COGNOVIT NOTE JUDGMENTS: No judgment based upon a warrant of attorney to confess judgment against the defendant contained in any instrument executed after January 1, 1974 shall be rendered by the Court unless the requirements of Ohio Revised Code Sections 2323.13 have been met.**

**RULE 2.06 SATISFACTION OF JUDGMENT: Satisfaction in whole or part of any judgment shall be effected by filing an appropriate order or entry with the Clerk which has been approved by the plaintiff or judgment creditor or his counsel. Payment of costs, unless otherwise excused by the Court for good cause shown shall be required prior to any filing of an order or entry satisfaction.**

**RULE 2.07 REVIVOR OF JUDGMENT: All costs accrued in a case must be paid upon the filing of a motion to revive a judgment. Motions to revive judgment must be filed in writing and served upon the other party. A hearing shall be scheduled and notice be given at least fourteen (14) days prior to the scheduled hearing date.**

**RULE 2.08 JURY TRIALS: Jury trials will be conducted in accordance with the Ohio Rules of Civil Procedure and the following local rules:**

- (A) In a civil case other than FED actions either party may demand a trial by jury within the time specified by Rule 38 of the Ohio Rules of Civil Procedure by first filing a deposit as set forth on Exhibit A with the Clerk of Court. Said jury demand and deposit must be filed fourteen (14) days prior to the date scheduled for trial.**
- (B) In FED actions a jury may be demanded as specified in Ohio Revised Code Section 1923.10 and upon posting bond as specified in Ohio Revised Code Section 1923.08.**
- (C) In any civil jury case counsel for the plaintiff shall file a trial brief with the Clerk at least twenty (20) days before the date of trial. Copies of the trial brief shall be certified to all opposing counsel or parties unrepresented by counsel. Reply**

**briefs shall be filed with the Clerk of Court at least ten (10) days before the date of trial with copies certified to all opposing counsel or unrepresented parties.**

- (D) Jurors for civil and criminal cases shall be chosen and summoned by the Clerk of Court as provided by law.**
- (E) If there are not enough persons to constitute the required panel the Court may order the panel filled by the bystanders or from among citizens from within the territorial jurisdiction of this Court or may order additional jurors from the Clerk of Court.**
- (F) If a jury is called to serve and the case is resolved prior to the jury appearing the cost to the party requesting the jury will be assess a fee pursuant to Exhibit A. If the jury appears for duty and the case is then resolved, the party requesting the jury will be assessed a fee also in accordance with Exhibit A.**

**RULE 2.09 WITNESSES AND SUBPOENAS: It is the responsibility of counsel to ascertain the availability of witnesses and to arrange to have them available when their respective case is called.**

- (A) Counsel shall instruct witnesses to check in at the Clerks Office upon arrival in order to verify their attendance and in order to be entitled to any witness fees.**
- (B) The Clerk of Court shall process requests for subpoenas from a praecipe or written instruction filed at least seven (7) business days in advance of the trial unless otherwise allowed by the Court. Subpoenas shall be served provided in Rule 45(B) of the Ohio Rules of Civil Procedure. Service of subpoenas to members of law enforcement agencies shall be by delivery from the Clerk's Office by way of facsimile.**

**RULE 2.10 DEBTOR'S EXAMINATIONS: The Court will grant only one continuance for cases assigned for a debtor's exam. Said exam must be held by the plaintiff during the scheduled court time or a new request for the examination must be filed along with the appropriate filing fee per Exhibit A.**

**RULE 2.11 WARRANT REQUESTS: Any request for a warrant to be issued for a party in a civil action must be made by way of a praecipe and include the wanted person's social security number and date of birth and must include the appropriate filing fee per Exhibit A. Any service fees will be billed separately to the requestor.**

**RULE 2.12 INVOLUNTARY DISMISSAL OF ACTIONS: Any civil case which is on the regular docket for six (6) months or any small claims case which is on the small claims docket for four (4) months without a proceeding taken therein shall be dismissed for want of prosecution after**

**written notice has been sent to counsel unless good cause is shown why such dismissal should not be effected.**

**RULE 2.13 FINDINGS OF FACT AND CONCLUSION OF LAW: Parties requesting findings of fact and conclusions of law shall submit concurrently with their request proposed findings of fact and conclusions of law.**

# **RULES OF PRACTICE FOR CRIMINAL AND TRAFFIC CASES**

## **RULE 3.01 APPEARANCE OF DEFENDANTS IN CRIMINAL CASES:**

- (A) Defendants in criminal cases shall be required to appear before the Court by notice to appear, summons, arrest or continuance from a former court date. Defendants must appear for arraignment and no waiver of arraignment shall be allowed unless made by defendant or legal counsel in person or in writing prior to the arraignment date or upon express oral approval of the Judge. A plea of not guilty may be made by the defendant in writing at which time the case will be assigned either for trial or pre-trial conference.**
- (B) In any case in which there is a request for protection order signed by the victim or arresting officer, the arraignment must be held in order to address the issue of the protection order. In the event that an attorney enters his/her appearance on behalf of the defendant, they must both appear for said arraignment to address the protection order request.**
- (C) Service shall be made in accordance with the applicable Rules of Criminal Procedure and Traffic Rules.**

## **RULE 3.02 BENCH WARRANTS: The Court may issue bench warrants pursuant to Rule 4, Ohio Rules of Criminal Procedure in accordance with the following guidelines:**

- (A) Defendants who fail to appear in court for initial appearance or arraignment who have been properly notified to appear by means of citation or summons and for whom there is a mandatory court appearance may have bench warrants issued against them by the Court.**
- (B) In those minor misdemeanor cases where defendants do not have a mandatory court appearance and fail to pay the fine and costs or to appear, bench warrants may be issued, with appropriate fees being assessed. Further, pursuant to Ohio Revised Code Section 2935.27 (d) in minor misdemeanor traffic cases, the Court in addition to issuing a bench warrant or in lieu thereof, may declare a forfeiture of defendant's operator's license for failure to pay fines/costs or appear.**
- (C) In the case of bailed persons who fail to appear, the Court may issue a bench warrant and order a forfeiture of the bond posted.**

- (D) Any warrants issued for the arrest of a person may also include a warrant block being placed upon the defendant's record at the Bureau of Motor Vehicles.**

**RULE 3.03 (A) MINOR MISDEMEANOR APPEARANCE AND WAIVER PROCEDURE:** Pursuant to Criminal Rule 4.1 a Violations Bureau for the disposition of minor misdemeanor offenses other than traffic is hereby established. A person charged with a minor misdemeanor offense or such other misdemeanor offense as from time to time may be specifically included in this procedure by administrative order of the Court, may, in lieu of appearance in court and within the time specified in the citation, appear personally at the Clerk's Office or by mail pay the stated fine and costs established by administrative order of the Court. Payments received under the Traffic Violations Bureau are considered pleas of guilty to the ticketed offense.

**(B) NOT GUILTY PLEA IN MINOR MISDEMEANOR CASES:** If the defendant enters a not guilty plea to a minor misdemeanor traffic and/or criminal offense and it is not a companion offense to a higher degree misdemeanor and/or felony charge the matter will then be scheduled for a trial to the Court within the specified time in the Ohio Rules of Criminal Procedure unless the time limitation is waived by the defendant.

**RULE 3.04 TRAFFIC VIOLATIONS BUREAU:** Pursuant to Ohio Traffic Rules (OTR) 13, a Traffic Violations Bureau is hereby established. A person [but not an organization as defined in O.R.C. Section 2901.01(d)] charged with a traffic violation waiveable under OTR 13 or under administrative order of the Court, may in lieu of appearance in court and within seven days from the date of the citation either appear personally at the Clerk's Office and pay said fine and costs or send payment by mail postmarked within seven days of the citation date. All fines and costs are established by administrative order of the Court. Payments received under the Traffic Violations Bureau are considered pleas of guilty to the ticketed offense.

**RULE 3.05 CASE MANAGEMENT IN CRIMINAL/TRAFFIC CASES:** The purpose of this rule is to establish, pursuant to M.C. Sup. Rule 18, a system for criminal case management which will provide for the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the criminal justice system.

**(A) ARRAIGNMENTS:** All criminal and/or traffic cases shall be arraigned in accordance with the Ohio Rules of Criminal/Traffic Procedure and Local Rule 3.01(A).

**(B) PRE-TRIALS:** At arraignment or upon the filing of a written plea of not guilty, all first degree and second degree misdemeanors shall be set for pre-trial conference by the Clerk's Office. All other misdemeanors shall be set for trial unless the Judge orders a pre-trial or defendant requests that a pre-trial be scheduled in his/her respective case and waives his/her right to a speedy trial.

**When possible said pre-trials are to be scheduled within thirty (30) days after arraignment or at the Court's earliest convenience.**

**The pre-trial shall be conducted in accordance with Criminal Rule 17.1 and a memorandum of the matters agreed upon may be filed in said case by the City Attorney/Prosecutor.**

**The respective parties are to exchange discovery and file any pre-trial motions within the time specified by the Court prior to the pre-trial conference.**

**At the conclusion of each Court ordered pre-trial the matter will be scheduled for either a motion hearing or trial. Nothing in this rule shall be construed to prevent defense counsel and/or the prosecutor to conduct informal pre-trials as their respective schedules may allow prior to hearing and/or trial dates.**

**Any attorney who fails to appear for pre-trial without just cause being shown to the Court may be found in contempt of court. If the defendant should fail to appear for pre-trial and his/her absence cannot reasonably be explained by his/her respective counsel, a warrant will be ordered for said defendant's arrest.**

**(C) MOTIONS: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure.**

**(D) CONTINUANCES: Case(s) shall not be continued except upon motion and order of this Court.**

**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 another trial court counsel shall attach a copy of said assignment notice to the motion for continuance. The case which was set first for trial shall have priority and shall be tried on the date assigned. Criminal cases will have priority over civil cases and felonies have priority over misdemeanors.**

**If the written request for a continuance is not received prior to the schedule court date, said request must be made on record on the scheduled date.**

**Written motions and accompanying judgment entries must be filed within five (5) days after any oral requests for a new date.**

**The time shall be taxed to the party filing the motion for continuance for purposes of computing the time in which a case must be resolved.**

**RULE 3.06 TRIALS:**

**(A) TRIALS TO THE COURT:** Each case not resolved at the pre-trial and not scheduled for a motion hearing shall be set for trial to the Court unless a jury trial has been demanded in accordance with Rule 23 of the Ohio Rules of Criminal Procedure.

**(B) JURY TRIALS:** A criminal and/or traffic defendant charged with a Misdemeanor of the fourth degree or a higher offense is entitled to a jury trial pursuant to Rule 23(A) of the Ohio Rules of Criminal Procedure. Except as otherwise provided herein, a defendant shall be tried to the Court unless a jury demand has been filed with the Court.

A written waiver of a jury demand is required in all cases wherein a written jury demand had previously been filed. Said waiver must be filed prior to the scheduled trial date or prior to the entrance of any plea or commencement of any trial to the Court.

Counsel for the respective parties should confirm the plea hearing date or trial to the Court date with the Clerk's Office.

**(C)** If a jury is called to serve and the case is resolved prior to the jury appearing the defendant will be charged a cost in accordance with Exhibit A. If the jury appears for duty and the case is then resolved, the case will be assessed a fee also in accordance with Exhibit A.

**RULE 3.07 CRIMINAL / TRAFFIC COURT COSTS:** The court costs in all criminal and traffic cases shall be set in attached Exhibit A.

**RULE 3.08 METHOD OF PAYMENTS & PAYMENT WITH COINS:** Payment by cash, money order, personal or certified checks are acceptable. No starter checks without the check writer's name, address and check number printed by the bank on said check will be accepted. Payment by Visa or MasterCard credit cards may be accepted in the Criminal and Traffic Divisions of this Court.

Cash payments made to the court in coins shall not exceed Five Dollars (\$5.00).

**RULE 3.09 WITNESSES AND SUBPOENAS:** It is the responsibility of counsel to ascertain the availability of witnesses and to arrange to have them available when their respective case is called.

**(A)** Counsel shall instruct witnesses to check in at the Clerk's Office upon arrival in order to verify their attendance and in order to be entitled to any witness fees.



- (B) The Clerk's Office shall process subpoenas from a praecipe or written instructions filed at least seven (7) business days in advance of the trial unless otherwise allowed by the Court. Subpoenas shall be served as provided in Rule 17(D) of the Ohio Rules of Criminal Procedure.**

**RULE 3.10 DRIVING PRIVILEGES:** The court may grant driving privileges upon request. However, privileges are not valid unless current insurance is in affect throughout privilege period. No privileges shall be granted during non-compliance suspensions unless the offense giving rise to said suspension was within the jurisdiction of the Bryan Municipal Court and the case was properly disposed of in said court.

**Rule 3.11 PROBATION AND PROGRAMS OPERATED BY PROBATION DEPARTMENT:**

- (A) FEES:** Each probationer shall be assessed supervision fee(s) as set forth in Exhibit A.
- (B) PROGRAM FEES:** Each offender who is ordered to complete a program operated by the Probation Department will be ordered to pay a fee as set forth in Exhibit A to attend and complete the program.

**All of the above fees shall be assessed as court costs and shall be paid through the Clerk's Office and are non-refundable.**

**These local rules shall be effective immediately 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.**

EXHIBIT A  
**IN THE BRYAN MUNICIPAL COURT  
 IN AND FOR WILLIAMS COUNTY, OHIO**

**COURT FEES/COSTS**

**JOURNAL ENTRY**

Court Fees in this Court shall be fixed as identified in Ohio Revised Code Sections 2303.20, 1901.26 and 311.17 effective January 20, 2010 as follows:

**CIVIL DIVISION**

Civil Filing Fee		80.00
Each Addt'l Defendant		9.00
FED		95.00
BMV		80.00
Landlord/Tenant		No Fee
Trusteeship		88.00
Breakdown: State Legal Aid	\$26.00	
Cost	52.00	
Computer Imp. Fund	10.00	
Amended Civil Complaints		25.00
Bench Warrants		25.00
- All service fees will be billed separately to Requestor		
Certificate of Judgment		5.00
Certificate under 3 Seals		5.00
Counterclaim or Cross-Complaint		80.00
Debtors Exam		30.00
Judgment Creditor Questionnaire		15.00
Jury - Civil		450.00
Filing	\$100.00	
2 weeks before Trial	\$350.00	
Non-Wage Garnishment		50.00
Plus separate Check for Bank		1.00
Wage Garnishment		70.00
Release Certificate of Judgment		5.00
Release Garnishment		5.00
Revive Judgment		15.00
Subpoena per name		15.00
Third-Party Complaint		80.00
Transfer Judgment from another Court		80.00
Vacate Judgment		15.00
Writ of Restitution, Execution or Replevin		50.00

<b>Small Claims</b>		33.00
Breakdown: State Legal Aid	\$11.00	
Computer Imp. Fund	10.00	
Cost	12.00	

Amended Small Claims Complaints		10.00
Counterclaim or Cross-Complaint		33.00
Each Addt'l Defendant		9.00
Subpoena per name		15.00
Transfer to Civil Docket		80.00

**CRIMINAL / TRAFFIC DIVISION**

	<u>Criminal</u>	<u>Traffic</u>
Local Costs	20.00	20.00
Computer Improvement Fund	10.00	10.00
Special Projects Fund	20.00	10.00
State Costs (see below)	<u>29.00</u>	<u>39.00</u>
-Indigent Defense Support Fund	\$20.00	
-Victims of Crime Fund	\$ 9.00	
-Other (Traffic Only)	\$10.00	

Bond or Recognizance		5.00
Commitment		5.00
Expungement		50.00
Indigent Application Fee		25.00

Jury Notice	(Postage Cost)	
Jury notified to appear / Case settled		270.00
Jury appears / Case settled		525.00
Late Charge		5.00
Release		5.00
Sheriff's Fee		6.00
Show Cause Order		15.00
Subpoena per name		5.00
Village Fee		6.00

**GENERAL**

Appeals	Court of Appeals Filing Fee	150.00
Appeals	Municipal Filing Fee	25.00
Audio Transcript per cassette/compact disk		10.00
Bailiff Fees for Service .75 first mile and .43 each additional mile		1.50
Certified Copies per page		2.00
Credit News or Legal News Report per month (paper or disc)		10.00
Driving Privileges Card		5.00
Fax		2.00
Additional pages		1.00

Interpreter Fees per visit	As Billed by Interpreter
Juror Fee per day	15.00
Probation Department Fees:	
Community Service Fee	120.00
Hands Down Domestic Violence Program	150.00
Probation Supervision Fee	120.00
Thinking for Change	On Probation: \$75.00; Otherwise \$150.00
Returned Check Fee	35.00
Service:	
Certified Mail	9.00
Registered Mail	12.00
<u>IN WILLIAMS COUNTY</u>	
Personal	25.00
Residential	15.00
<u>OUTSIDE WILLIAMS COUNTY</u>	
Personal	40.00
Residential	40.00
(Any additional fees to be billed to party requesting service)	
Web Payment Convenience Fee	3.50
Witness Fee per day	12.00
Mileage .505 per mile	