

New Philadelphia Municipal Court
New Philadelphia, Ohio

Local Rules of Practice



Judge Nanette DeGarmo Von Allman
Effective January 1, 2024



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ADOPTION OF LOCAL COURT RULES

The following Rules are adopted for the governance of the practice and procedures in the New Philadelphia Municipal Court effective until otherwise provided, pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Ohio and have been adopted to provide for the efficient and expeditious management of business before this Court. These Rules are to be known as the New Philadelphia Municipal Court Rules of Practice and Procedure and may be cited as NPMCR No. .

The Clerk of Court is ordered forthwith to post this Order and the Rules (attached hereto). The Clerk of Court is further ordered to maintain copies of these Rules for review as requested by litigants and/or their counsel and to provide copies as requested charging only for the cost of copying. The Clerk of Court is further ordered to maintain a copy of these Rules on the Court's website.

IT IS SO ORDERED.

Effective Date: January 1, 2024

/s/ Judge Nanette DeGarmo Von Allman
Judge Nanette DeGarmo Von Allman
Administrative & Presiding Judge

GENERAL RULES

RULE NO. 1.01: COURT HOURS

The Clerk of Court's office shall be generally open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Sessions of the Court shall generally be daily Monday through Friday, 8:00 a.m. to 4:30 p.m. The Court shall be in session at such time as the Judge shall prescribe to meet special situations. The Violations Bureau shall close at 4:00 p.m.

RULE NO. 1.02: DECORUM AND CONDUCT

A. On opening of any Court session, all persons in the courtroom shall stand. All persons in the courtroom shall conduct themselves with decorum and in such manner so as not to interfere with or obstruct judicial activities or proceedings. All persons appearing before the Court shall appear in appropriate dress.

B. Litigants and/or spectators are not permitted to smoke, eat or drink in the courtroom, nor shall they bring food or drink into the courtroom without permission of the Judge or Magistrate.

C. No person shall loiter, or conduct himself or herself in an unseemly or disorderly manner, in the courtroom or in any halls, stairways, entryways or parking lot areas adjacent to the Courthouse, or otherwise interfere with or obstruct judicial activities or proceedings.

D. All cell phones are to be turned off while in the courtroom, except with the permission of the Court. If a violation of the rule occurs, the Court may confiscate the device for the duration of the proceedings. No extra-judicial recording in the courtroom is permitted.

E. The Court expects that counsel shall call this rule to the attention of clients and witnesses.

RULE NO. 1.03: PUBLIC USE OF COURTROOMS

A. Questions of the admission of persons to a courtroom shall be the province of the Judge or Magistrate to whom that courtroom is assigned, within the guidelines of public access to all court proceedings, consistent with the order and dignity of the Court.

B. Requests for permission to broadcast, record, photograph or televise in the courtroom shall be made in writing to the Judge or Magistrate to whom the case is assigned as far in advance as reasonably practical by a motion form available at the Court, but no later than one-half (1/2) hour prior to the courtroom session unless otherwise permitted by the trial Judge.

RULE NO. 1.04: GIFTS

No Court employee shall accept or permit to be accepted on their behalf a gift, bequest, favor or loan from any person likely to be engaged in a proceeding that ordinarily would come before the Court, from a person likely to do business with the Court or from any other person under circumstances that might reasonably be regarded as influencing or appearing to influence the performance of the employee's official duties.

RULE NO. 1.05: COURT SECURITY

All persons entering the New Philadelphia Municipal Court are subject to a security screening of their person and property prior to entrance to the building. All persons in the building will follow the directives of New Philadelphia Municipal Court Security Personnel. Any item deemed to be a weapon by security staff shall be retained by security prior to entrance to the building. That item may be returned to the owner upon exiting the building. Firearms are forbidden in the New Philadelphia Municipal Court, except for authorized persons (on-duty law enforcement, court security officers, court probation officers).

RULE NO. 1.06: APPEARANCE AND WITHDRAWAL OF COUNSEL

A. Appearance:

Attorneys practicing before this Court (except for pro se litigants) shall designate their capacity as trial counsel on all pleadings, motions, petitions, etc. filed in this Court. A law firm shall not be designated as trial counsel. Upon the entry of appearance of counsel, all documents filed with the Court and all court orders shall be served upon the designated counsel. The first attorney listed is the primary trial counsel and all communications from the Court will be sent to that attorney. All such documents shall bear, in addition to the original signature of trial counsel, counsel's name, office address, office telephone number, fax and email, as well as the number of counsel's Ohio Supreme Court Certificate of Registration, as provided by Ohio Gov. Bar R. VI, § 4.

Civil documents must be signed in compliance with Civil Rule 11.

B. Pro Hac Vice:

Attorneys who wish to appear pro hac vice must comply with Ohio Gov. Bar R. XII regarding pro hac vice certification and familiarize themselves with these local rules.

C. Withdrawal:

Once an appearance is made, an attorney may withdraw from a case only with leave of court or notice of substitution of counsel. Withdrawal shall be permitted only upon written motion filed with the court. The motion shall include (1) the specific reasons for requesting withdrawal; (2) the name and address of a substitute attorney, if any; and (3) proof of notification to the opposing attorney and to the client. Said motion shall be filed at least seven (7) days prior to the next scheduled hearing.

RULE NO. 1.07: MAGISTRATES

The Judge may appoint Magistrates who may hear cases by reference, and in accordance with Traffic Rule 14, Criminal Rule 19, Civil Rule 53, and Rules of Superintendence Rule 19 and 19.1.

RULE NO. 1.08: COURT COSTS

The schedules of court costs for criminal/traffic cases as well as for civil/small claims cases are set by administrative order. The schedules are available at the Clerk of Court's office and are posted on the Court's website at www.npmunicipalcourt.org.

RULE NO. 1.09: MOTIONS

Motion Requirements:

All motions, unless made during a hearing or trial, shall be in writing and accompanied by a memorandum stating the grounds for the motion and citing relevant authorities. The motion shall not exceed fifteen (15) pages including any supporting documents/exhibits. The Court may allow additional pages by Judgment Entry upon the filing of a motion and for good cause shown. If a party fails to provide a memorandum or exceeds the 15-page limit without leave of Court, the Court may overrule the motion without consideration. Excess pages will be destroyed.

All motions shall be accompanied with a proposed entry. Failure to supply a proposed entry may delay the Court ruling on such motion or may result in the motion being denied.

RULE NO. 1.10: INTERPRETERS

The Court will use and pay for certified, provisionally qualified, or language-skilled interpreters in all proceedings in which a party or witness is non-English speaking, deaf, or hard of hearing.

Interpreters shall be used in accordance with the Rules of Superintendence and in accordance with the Court's Language Access Plan.

Any party, or counsel for any party, who is aware that there is a need for interpretive services shall notify the Court of that need in writing immediately and the specific language needed.

RULE NO. 1.11: CONTINUANCE OF TRIAL OR HEARING

No case assigned for trial or hearing may be continued except upon written motion and for good cause shown. Such motion shall be filed with the Court not less than seven (7) days prior to the date of the trial or hearing. In the case of unforeseen emergency, this time requirement may be waived. The moving party shall indicate to the Court if opposing counsel/party has no objection to the continuance. Agreement of opposing counsel/party does not guarantee that a continuance will be granted. If counsel is alleging a conflicting trial date as the reason for continuance, the conflicting trial notice **MUST** be attached to the notice. Failure to attach a copy of the conflicting hearing shall result in a denial of said motion to continue.

All Attorneys are required to submit notices to the Court of any scheduled vacations. The failure to do so may result in the denial of any motions to continue any scheduled trial dates.

RULE NO. 1.12: RECUSAL OF JUDGE

Should a judge recuse himself or herself from hearing any individually assigned case, said judge shall cause a Journal Entry to be made setting forth the recusal and the reason therefore. The case shall thereafter be referred to an Assigned Judge or Visiting Judge so designated, by the Supreme Court of Ohio.

RULE NO. 1.13: FACSIMILE FILINGS: This rule implements the Model Facsimile Filing Rule issued by the Supreme Court of Ohio.

A. Applicability: These rules apply to all proceedings in the New Philadelphia Municipal Court, except cognovit promissory note actions which must be filed as the original document.

B. 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. A “source document” means the document transmitted to the Court by a facsimile machine.
4. A “fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
5. An “effective original document” means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the court’s file.
6. An “effective date and time of filing” means the date and time that a facsimile document is accepted by the Clerk of Court for filing.

C. Procedure:

1. Pleadings and other documents may be filed with the Clerk of Court by facsimile transmission to **330-364-6885**.
2. A document filed by fax shall be accepted as the effective original filing.
3. The original (source) document and cover sheet filed by facsimile shall be maintained by the person **making the filing** and made available for inspection by the Court upon request. The document and cover sheet shall be maintained until the case is closed and all opportunities for post judgement relief are exhausted.
4. Facsimile filings shall not exceed fifteen (15) pages in length, excluding the cover sheet. Service copies shall not be transmitted by facsimile.
5. Facsimile filings may NOT be sent directly to the Court for filing but may only be transmitted directly to the dedicated facsimile equipment operated by the Clerk of Court.
6. The Clerk of Court may, but need not, acknowledge receipt of the facsimile transmission.
7. The risks of transmitting a document by facsimile 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.

D. Fax Cover Page:

1. The person filing a document by fax shall also include a cover page containing all the following information:
 - a. The case caption;
 - b. The case number;
 - c. The title of the document being filed (e.g. Defendant Jones Answer to Amended Complaint; Plaintiff Smith's Response to Defendant's Motion to Dismiss);
 - d. The date of the fax transmission;
 - e. The transmitting facsimile number;
 - f. The name of the judge to whom the case is assigned, if any;
 - g. The number of pages included in the transmission, including the cover page;
 - h. The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the document, if available.
2. A sample cover page is available under "Forms" on the Court's website or from the Clerk of Court. (www.npmunicipalcourt.org.)
3. If a document is sent by fax to the Clerk without the cover page information listed above, the Clerk may, at its discretion,
 - a. Enter the document in the Case Docket and file the document; or
 - b. Deposit the document in a file of failed faxed documents with a notation of the reason for the failure, and the document **shall not** be considered filed with the Clerk of Court.

E. Failed Fax Submission:

The Clerk of Court may, but 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.

F. Signature:

1. A party who wishes to file a signed source document by fax shall either:
 - a. Fax a copy of the signed source document; or
 - b. Fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.
2. A party who files a signed document by fax or email represents that the physically signed source document is in his/her possession or control.

G. Exhibits:

1. Each exhibit to a facsimile that cannot be accurately transmitted via facsimile 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.
2. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, caption of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" with 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.

H. Time of Filing:

1. Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Court as of the date and time the Clerk time-stamps the document received as opposed to the date and time of the fax transmission. The Clerk of Court office 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. However, the fax machine will be available to receive facsimile transmission of documents 24 hours per day, seven days a week, including holidays.
2. Documents received outside of normal business hours of the Clerk of Court will be queued in the order of their receipt as documented by the date and time imprinted by the receiving facsimile machine and time-stamped accordingly.

I. Fees and Costs:

1. No document shall be accepted by the Clerk of Court for facsimile filing if it requires a filing fee or service by the Clerk of Court.
2. No additional fee shall be assessed for facsimile filings.

RULE NO. 1.14: FILING BY ELECTRONIC TRANSMISSION (eFILING) [RESERVED]

RULE NO. 1.15: TECHNOLOGY PLAN

In accordance with Ohio Rule of Superintendence 5(E), the Court has adopted and will maintain a Court technology Plan which includes:

- A.** A comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic service, the acceptance of electronic signatures, and any other technology related solution utilized by the Court.
- B.** Procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the Court and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the "Americans with Disabilities Act."

This plan will be available from the office of the Clerk of Court and posted on the Court's website.

RULE NO. 1.16: COURT OFFICIAL RECORDING AND TRANSCRIPTS

A. Record of Proceeding:

All Court proceedings are recorded electronically and stored digitally. Electronic recordings are the official record. Recordings will be retained in accordance with the Ohio Supreme Court Rules of Superintendence. The Court does not employ court reporters.

B. Transcript of Proceeding:

All requests for transcripts of any court proceeding shall be made by motion. The Court does not staff a certified court reporter or transcriptionist. In ruling on the motion, the Court will issue a notice with a list of court authorized stenographers who may be contacted by the movant for preparation of the transcript and estimated cost of the same. Payment of all costs for the transcript is the responsibility of the party requesting the transcript.

All transcriptions must be filed with the Court immediately upon completion.

C. Copy of Record of Proceeding:

All requests for copies of the electronic recording of any court proceeding shall be directed to the Clerk of Court and a copy, produced as a CD will be provided for a nominal fee. Said CD may not be used to create an official transcript of proceedings unless procedures in section (B) of this Rule are followed. All requests shall be made on a form provided by the Clerk’s Office.

RULE NO. 1.17: PUBLIC RECORD REQUESTS

Most Court records are presumed open to public access. Public record requests will be fulfilled in full compliance with the Ohio Rules of Superintendence, the Ohio Revised Code and any other applicable rules or statutes.

RULE NO. 1.18: JURY MANAGEMENT PLAN

See Jury Management Plan, Appendix A.

RULE NO. 1.19: COURT RECORDS MANAGEMENT AND RETENTION

The New Philadelphia Municipal Court maintains records in accordance with the Ohio Supreme Court Rules of Superintendence, the Ohio Revised Code, and applicable case law concerning record retention. Pursuant to Ohio Superintendence Rule 26(G), a court may establish retention schedules for any records not listed in Sup. R. 26.01 to 26.05. The following schedule shall be followed by the New Philadelphia Municipal Court:

DOCUMENT	RETENTION PERIOD
Blank Juror Questionnaire Form	Retained permanently.
Jury Information for Criminal Cases that go to Trial (Summons, Verdict, Seating Chart, Jury List, Juror Questionnaires).	Scanned and retained in electronic format for 50 years after the final order of the court, just as the case file is maintained.

Jury Information for Civil Cases that go to Trial (Summons, Verdict, Seating Chart, Jury List, Juror Questionnaires).	Scanned and retained in electronic format for 2 years after the issuance of the audit report by the Auditor of State, just as the case file will be maintained.
Jury Information for Traffic Cases that go to Trial (Summons, Verdict, Seating Chart, Jury List, Juror Questionnaires).	Scanned and retained in electronic format for 25 years after the final order of the court, just as the case file will be maintained.
Jury Information for Cases that Never go to Trial (Summons, Jury List, Juror Questionnaire).	Retained for 1 year from the end of the applicable term of service and thereafter may be destroyed.
Permanent Juror Excusals	Scanned and retained in electronic format for five years.
Juror Excusals for Term	Retained for 1 year from the end of the applicable term of service and thereafter may be destroyed.
Probation Files/Records/Pre-Sentence Investigations	Retained for 2 years after probation ends.
Probation Referral Resources (Referrals to community agencies)	May be destroyed in the normal course of business as soon as they are considered to be of no value.
Courthouse Surveillance Video	Retained until recorded over by the system.
Competency/NGRI Evaluations	Retained for 50 years (criminal) or 25 years (traffic) just as the case file is maintained.
Case Exhibits, Depositions, and Transcripts	After the conclusion of litigation, retained for 60 days after notice of destruction to tendering party, unless collected earlier by the tendering party.
Substantiated Internal Employee Investigations	Retained for 10 years after separation from employment.

All convictions for Domestic Violence, Violation of a Temporary Protection Order, Cruelty to Animals, Vehicular Manslaughter, and Operating a Vehicle while under the influence of alcohol shall be retained in their original form.

CRIMINAL / TRAFFIC CASE MANAGEMENT

RULE NO. 2.01: ARRAIGNMENT

ARRAIGNMENT

The Clerk of Court shall require the filing of a written complaint, E-ticket, or Uniform Traffic Ticket before placing an individual's name on the traffic/criminal docket. If the E-ticket is not filed by the arraignment date and time, the case will be dismissed. If a paper ticket is filed after the arraignment date, the ticket will be returned.

A. Use of Electronically Produced Traffic Tickets (E-Tickets):

The use and filing of tickets produced by computer or other electronic means, which conform to the requirements of Ohio Traffic Rule 3 are hereby authorized.

B. Use of Electronically Produced Criminal Complaint and Summons:

The use and filing of criminal complaints and summons by computer or other electronic means, must conform in all substantive respects to the Ohio Rules of Criminal Procedure and Ohio Crim. R. 4(G).

1. If a criminal complaint and summons is issued at the scene of an alleged offense, the issuing officer shall serve the defendant with the defendant’s paper copy of the criminal complaint and summons as required by Ohio Crim. R. 4(D).

2. A law enforcement officer who files a criminal complaint and summons pursuant to this rule and electronically affixes the officer’s signature thereto, shall also have his/her signature attested to by either a peace officer, judge, clerk, or deputy clerk after which the complaint and summons shall be considered to have been certified and shall have the same rights, responsibilities, and liabilities as with all other criminal complaints and summons issued.

C. Plea by Personal Appearance:

The defendant, either on his own behalf, or by and through counsel, may enter one of the following pleas at arraignment:

1. Guilty,
2. Not guilty,
3. No contest, or
4. Not guilty by reason of insanity (except in traffic cases where a not guilty plea by reason of insanity is not applicable).

D. Written Not Guilty Plea:

A defendant may enter a written plea of not guilty prior to defendant’s scheduled arraignment provided that the written not guilty plea is sent by counsel for offenses other than those listed in section (E) of this rule. The written not guilty may demand or waive the defendant’s right to a speedy trial, demand or waive the defendant’s right to a jury trial if the offense is one that provides a right to a jury trial and indicate if the defendant is willing to have his case heard by a magistrate. If right to a speedy trial is not addressed, the Court will presume that a right to speedy trial is not waived and schedule accordingly.

E. Written Not Guilty Plea Prohibited:

The defendant must personally appear before the Court for arraignment if charged with any of the offenses listed below. The Court will not accept a written Not Guilty Plea filed by or on behalf of a defendant when a victim may be eligible to obtain a Criminal Domestic Violence Temporary Protection Order pursuant to O.R.C. 2919.26 or a Criminal Protection Order pursuant to O.R.C. 2903.213.

The following crimes, when the victim is a family or household member (O.R.C. 2919.26):

- Domestic Violence (R.C. 2919.25)
- Criminal Damaging (R.C. 2909.06)
- Criminal Mischief (R.C. 2909.07)

- Burglary (R.C. 2911.12)
- Aggravated Trespass (R.C. 2911.211)
- Any offense of violence as defined in R.C. 2901(9)(a) through (d), or a violation of a substantially similar municipal ordinance.

Other Criminal offenses (O.R.C. 2903.213):

- Felonious Assault (R.C. 2903.11)
- Aggravated Assault (R.C. 2903.12)
- Assault (R.C. 2903.13)
- Aggravated Menacing (R.C. 2903.21)
- Menacing by Stalking (R.C. 2903.211)
- Menacing (R.C. 2903.22)
- Aggravated Trespass (R.C. 2911.211)
- Any sexually oriented offense as defined in R.C. 2950.01(A)(1) through (13), or a violation of a substantially similar municipal ordinance.

F. Request for Continuance:

Defendant may request a reasonable continuance of initial arraignment by filing a written motion or defendant may appear in Court at arraignment to request a continuance. Supporting documentation shall be attached to any motions to continue the hearing date. The Court may deny the continuance if there is no time waiver.

RULE NO. 2.02: INCARCERATED ARRAIGNMENT AND INITIAL APPEARANCE

A. Considerations:

This rule is intended to provide an efficient process for the arraignment or initial appearance of incarcerated defendants which complies in all respects with the Pretrial Release and Detention requirements of Ohio Criminal Rule 46.

B. Hearings Shall be Conducted by Video:

All incarcerated defendants shall appear for arraignment or initial appearance by video from the jails unless the Court, upon motion of either party, for good cause shown, or upon the Court's own motion, orders the defendant to appear in Court.

C. Prosecutor's Duties:

The State, through the appropriate Prosecutor or Assistant Prosecutor, shall attend incarcerated arraignment and initial appearance hearings. Prosecutors representing any of the Court's jurisdictions shall comply with Marsy's Law, Ohio Constitution Article I, Section 10(a) and all applicable provisions of Chapter 2930 of the Ohio Revised Code (Victims' Rights).

The State may make arrangements with the Bailiff to appear by video. The State shall be prepared to make recommendations to the Court which address all statutory, constitutional, and criminal rule

pretrial release or detention considerations, including those listed in Criminal Rule 46(B) and (C). The State shall specifically address the issues of victim protection and public safety in all cases alleging offenses of violence or sexually oriented offenses.

The State may file recommendations in writing prior to the times of the hearing and in lieu of appearance, provided that those recommendations address all the above-mentioned considerations. The Court may order the Prosecutor to appear at any hearing, even if written recommendations have been filed.

D. Public Defender’s Duties:

An attorney from the Public Defender’s office shall attend all arraignment and initial appearance hearings for incarcerated defendants and shall be appointed for that purpose by the Court. During the hearing, the Court will determine whether the appointment should continue or be withdrawn for future proceedings. If private counsel appears at the hearing on behalf of the defendant, the appointment will be withdrawn.

The Public Defender may make arrangements with the Bailiff to appear by video. The Public Defender shall be prepared to respond to any pretrial release or detention recommendations of the State and to present all other relevant information in support of pretrial release on behalf of the defendant.

The Public Defender should make every reasonable effort to consult with incarcerated defendants at the jails prior to hearing.

RULE NO. 2.03: PRETRIAL RELEASE AND SUPERVISION

The Court has a Pretrial Supervision Program administered by the Probation Department. Prior to appearing for arraignment or initial appearance, a defendant incarcerated in the Tuscarawas County jail will be interviewed by a probation staff member to determine eligibility for pretrial supervision. Staff will interview the defendant at the Tuscarawas County jail, either by electronic means or in person. During the interview, staff will utilize the Ohio Pretrial Risk Assessment tool (ORAS) Written recommendations will be prepared regarding the defendant’s risk of flight.

The ORAS report and recommendations will be forwarded electronically to the Court, prosecutor, and defense counsel prior to arraignment/initial appearance. The report may recommend incarceration, release on pretrial supervision, drug/alcohol testing, alcohol monitoring, assessment for substance use disorder and/or mental health issues.

If the defendant is placed on pretrial supervision, the defendant must report to the courthouse immediately upon release from the jail. The defendant will review and sign pretrial supervision agreement setting forth all requirements of supervision. If the defendant fails to abide by any terms of pretrial supervision, the probation staff may file an affidavit with the Court requesting a warrant for the arrest of the defendant.

RULE NO. 2.04: DISCOVERY IN CRIMINAL CASES

Pursuant to Ohio Criminal Rule 16(L)(1), discovery in criminal cases shall be conducted as follows:

All discovery shall be conducted between parties/counsel pursuant to Criminal Rule 16 and completed not less than seven (7) days prior to the date of pretrial or date of trial if no pretrial has been set. No written demand for discovery, notice of response to demand, or demand for reciprocal discovery shall be filed with the Court.

A motion to compel discovery may be filed in accordance with Criminal Rule 16(M).

RULE NO. 2.05: JURY PRACTICE IN TRAFFIC/CRIMINAL CASES

A. Any party desiring a jury trial in a criminal/traffic case shall demand the same in accordance with Criminal Rule 23. The jury demand must be in writing by separate instrument. The jury demand must be filed in compliance with the time frame set forth in the applicable Rule.

B. If a jury trial is demanded in a traffic/criminal case, a Scheduling Order will be entered by the Court.

C. Pretrial motions, including motions in limine, shall be filed at least **fourteen (14 days)** before the final pretrial. Motions will be considered without a hearing on the date of the final pretrial unless an oral hearing is requested in the original motion. If an oral hearing is requested, a date will be selected at the final pretrial. Proposed jury instructions shall be filed at least **seven (7 days)** before the final pretrial.

D. Voir dire will be conducted by the questioning of all prospective jurors collectively. Counsel will have the opportunity to question the prospective jurors pursuant to Crim. R. 24(B) and ORC 2945.27. All challenges, for cause and peremptory, will be made at the bench. After all challenges are exercised or waived the eight jurors and one alternate juror remaining in numerical order will be seated in the jury box to be sworn. Written objections to this procedure shall be filed with the Court prior to the final pretrial.

E. Electronic Media Evidence (DVD/Stick drive) shall be brought to the final pretrial so that compatibility with court equipment can be determined. Any questions should be directed to the Chief Bailiff.

F. Counsel may pick up copies of Jurors' Questionnaires at the Clerk's Office on the business day before trial. Questionnaires may be faxed or emailed to counsel upon request received by noon on the business day before trial. Please contact the Judge's Administrative Assistant.

RULE NO. 2.06: COURT APPOINTED COUNSEL

A. Appointments and Qualifications:

Appointment of either the Public Defender's Office or a private attorney shall be made by the Court. When the Public Defender's Office notifies the Court that they cannot represent a particular defendant due to a conflict of interest, the Court will appoint a private attorney. The Court maintains a list of private attorneys who wish to serve on the appointed counsel list.

The Court will conduct a periodic review to ensure an equitable distribution of appointments among attorneys on the list and utilize a rotary system from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the attorney to be appointed.

The qualifications of appointed counsel shall conform to Ohio Adm. Code 120-1-10.

B. Process for Inclusion on Appointed Counsel List:

Attorneys who desire to be on the appointed counsel list shall complete the Application for Appointed Counsel Program available online at www.npmunicipalcourt.org or in the Clerk of Court's Office. The form shall be submitted to the Court Administrator. Attorneys desiring to be removed from the appointed counsel list shall notify the Court Administrator in writing. Attorneys on the appointed counsel list are required to notify the Court of any changes in contact information or attorney status.

C. Affidavit of Indigency:

Appointed counsel shall obtain from each alleged indigent defendant an affidavit of indigency setting forth the facts in support. Ohio Public Defender form OPD-206R shall be utilized.

D. Compensation and Expenses:

All requests for compensation for payment shall be made by accurately completing the prescribed Ohio Public Defender forms and submitting them to the Court within thirty (30) days after withdrawal by counsel or termination of the case, whichever is sooner.

The rate of compensation shall be commensurate with the applicable Ohio Public Defender Guidelines.

RULE NO. 2.07: CRIMINAL DIVERSION PROGRAM

A. The Criminal Diversion Program is applicable for the following misdemeanors:

1. Underage Consumption/Possession of Alcohol.
2. Minor Misdemeanor Possession of Marijuana Paraphernalia.
3. Minor Misdemeanor Possession of Marijuana.

The purpose of the Criminal Diversion Program is to encourage early education and intervention in cases involving eligible offenses and to provide a period of supervision and education to those offenders who are willing to accept responsibility for their misconduct. The Program holds the offenders accountable for their actions and assists them in learning new ways to deal with the issues that led to their offense, while keeping them from the stigma of a criminal conviction. The Program is for first-time offenders only. The goal of the Program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.

The Diversion Program is not available for cases involving the use or possession of K2/Spice, cocaine, methamphetamines, heroin or other harmful intoxicants or controlled substances or paraphernalia related to their use.

B. Eligibility for the Criminal Diversion Program

The program is open to persons who have not already participated in the Diversion Program and who have not been convicted as an adult in this or any other court for other criminal activity or any alcohol

or drug related offense, and whose pending charge(s) are limited to any or all of the following with or without a minor traffic offense:

1. Misdemeanor violations of R.C. § 4301 regulating the possession or consumption of alcohol by minors or comparable municipal/village ordinances.
2. Minor misdemeanor violations of R.C. § 2925.141(C) barring the use or possession of marijuana paraphernalia or comparable municipal/village ordinances.
3. Minor Misdemeanor violations of R.C. § 2925.11(A) barring the use or possession of less than one hundred (100) grams of marijuana or comparable municipal/village ordinances.

The Diversion Program shall not be utilized for any offense which resulted in personal injury or involved another criminal or excluded drug or alcohol related offense. In addition, those offenders otherwise eligible under the above criteria may be rejected from consideration for the program if the prosecuting attorney objects prior to arraignment.

C. Elements of the Criminal Diversion Program:

First-time offenders cited into Court on an eligible offense will be informed of their rights. The offender will not enter a plea initially, but must agree to waive, in writing the statutory and constitutional right to a speedy trial. The offender will be provided with information about the Criminal Diversion Program. If the offender elects to participate, the offender will sign a contract agreeing to participate in the Program. Participation in the Program will include payment of a diversion fee, an educational component, and an agreement to abide by the law and remain alcohol/drug free. Participation in the Program is voluntary.

Successful completion of the Program will result in dismissal of the eligible charge(s). If an offender is unsuccessful in completing the Program, he or she will be required to enter a plea and the case will proceed pursuant to such plea.

RULE NO. 2.08: SPECIALIZED DOCKET - THE NEW PHILADELPHIA MUNICIPAL RECOVERY COURT

The New Philadelphia Municipal Recovery Court (NPMRC) operates under specialized docket certification from the Ohio Supreme Court. This docket is created pursuant to the authority and requirements under Sup.R. 36.20 through 36.29 of the Rules of Superintendence for the Courts of Ohio. The goal of Recovery Court is to provide a court managed intervention treatment and monitoring program to assist participants with a diagnosis of substance use disorder to develop sober lifestyles through evidenced based intervention and treatment, in a non-adversarial program and to reduce recidivism among participants. The criteria for placement in Recovery Court and the program requirements are available on the Court's website: www.npmunicipalcourt.org.

RULE NO. 2.09: PAYMENT PLAN PROGRAM

The New Philadelphia Municipal Court utilizes the Payment Plan Program to promote payment compliance among offenders who owe the Court money as a result of financial sanctions and/or court costs issued by the Court. The Program will allow offenders who owe the Court money to enter into a payment plan with the Court. The Court will review compliance with payment plans on a regular

basis. Pursuant to R.C. 2929.28(F)(3), the Court may “charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.”

RULE NO. 2.10: WAIVERS FOR VIOLATION OF CODIFIED ORDINANCES AND OHIO REVISED CODE

Pursuant to the requirements of Criminal Rule 4.1(E), and Traffic Rule 13, the Court has established a waiver schedule by administrative order. The schedule is available at the counter in the Clerk's Office and on the Court's website at www.npmunicipalcourt.org.

RULE NO. 2.11: METHOD OF ASSIGNING PAYMENTS

A. Pursuant to ORC 2949.111(C), the Clerk of Court shall assign payments as defined in O.R.C. 2949.111 as follows:

1. If the Court ordered the offender to pay any court costs, the offender's payment shall be assigned toward the satisfaction of those court costs until they have been entirely paid.
2. If the Court ordered the offender to pay any reimbursement and if all of the court costs that the Court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the reimbursements until they have been entirely paid.
3. If the Court ordered the offender to pay any restitution and if all court costs and reimbursements that the Court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the restitution until it has been entirely paid.
4. If the Court ordered the offender to pay any fine and if all court costs and reimbursements, and restitution that the Court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of fine until it has been entirely paid.
5. If the Court ordered the offender to pay any state fine or costs and if all court costs and reimbursements, restitution and any fine that the Court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of fine until it has been entirely paid.

B. If a person who is charged with a misdemeanor is convicted of or pleads to that offense and if the Court orders the offender to pay any combination of court costs, reimbursements, restitution, fines and state fines or costs, the Court, at the time it orders the offender to make those payments, may prescribe an order of payments that differs from the order set forth in sections 1 through 5 of this Rule by entering in the record of the case the order so prescribed. If a different order is entered in the record, on receipt of payment, the Clerk of Court shall assign the payment in the matter prescribed by this Court.

RULE NO. 2.12: PRIVATE COMPLAINT

Private complaints in criminal cases shall be filed only in accordance with ORC 2935.09. Any private complaint charging a misdemeanor which carries the possibility of a jail sentence (misdemeanors of the first, second, third or fourth degree and jailable unclassified misdemeanors) for which the prosecutor requests the issuance of a summons, shall be served upon the defendant by delivering a

copy of the summons and complaint to the defendant **personally**. No summons or private complaint issued upon a private complaint charging a misdemeanor which carries the possibility of a jail sentence shall be served by residence service, certified mail, or other means inconsistent with this rule.

Upon the filing of any private complaint under this local rule the Clerk of Court shall issue the summons pursuant to Ohio Criminal Rule 4(C)(2). The Clerk shall place the summons with the attached complaint in the prosecuting attorney's designated box at the Clerk's office and shall notify the prosecuting attorney that the summons and complaint are available for pick-up by, or delivery by the prosecutor to any authorized law enforcement officer of the charging jurisdiction for personal service upon the defendant.

Return of personal service shall be made by the serving officer pursuant to Ohio Criminal Rule 4 (D)(4).

This rule shall not apply to the issuance and return of service of summons and private complaint in minor misdemeanor criminal cases.

RULE NO. 2.13: BOND SECURED BY REAL ESTATE

Procedure:

A. The real estate must be titled in the name of the defendant or surety and must be located in Tuscarawas County, Ohio. In order to be used as security, real estate must be titled in the name of an individual. Property owned by a trust, trustee, corporation, limited liability corporation, partnership or other such entity shall not be accepted as security under this rule.

B. The defendant or surety must file an **Affidavit for a Real Estate Bond** which includes all of the following: **Forms are available in the Clerk of Court's Office.**

1. A Certificate of Title issued by a licensed real estate title company showing all owners of the real estate, and spouse(s), if any, and showing all lien holders and the amount claimed in each encumbrance;
2. A current appraisal from the County Auditor or a licensed real estate appraiser, showing the fair market value of the real estate;
3. For each encumbrance identified in the Certificate of Title, satisfactory evidence of the current balance of each encumbrance, including any unpaid mortgages, taxes, or other liens;
4. A statement of equity showing the difference in the fair market value of the real estate less the unpaid balances of each lien, equaling a balance of at least twice the amount of the bond;
5. A certified copy of the property deed from the County Recorder's Office;
6. The Affidavit must be signed by the defendant or surety, and their spouse in the presence of a Notary Public.

C. The Judge will review the Affidavit, Certificate of Title, and supporting documents. If the Judge finds that the Affidavit, Certificate of Title, and supporting documents comply with this rule, the Clerk will file the bond in the Tuscarawas County Recorder's Office as a lien on the real estate. A filing fee

of \$100.00 and the bond surcharge fee shall be charged. A release of lien shall be conveyed to the defendant or surety for filing after the bond is released.

D. Should the defendant fail to appear, the lien on the real estate can be foreclosed pursuant to the Ohio Revised Code, the real estate sold, and the proceeds applied to the bail amount.

CIVIL / SMALL CLAIMS MANAGEMENT

RULE NO. 3.01: CIVIL CASE MANAGEMENT

A. Costs:

No action, proceeding, motion or other document shall be accepted for filing by the Clerk of Court unless there first shall be deposited the sum of not less than the amount specified in the civil costs section as security for costs, unless otherwise ordered by the Court or otherwise exempted by law. The schedule of court costs in the civil division is set by administrative order. The schedule is available at the Clerk of Court's Office or at the Court's web site. Those persons unable to post the required security for costs may be excused from the same upon filing of an appropriate affidavit, when approved by the Judge or Magistrate.

No more than five (5) complaints shall be filed per check submitted to pay for the costs of the filing of such complaints.

B. Summons:

The summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk of Court shall notify counsel or pro se party. If counsel/pro se party fails to obtain service of the summons and complaint within six (6) months from the date the case has been filed and the party on whose behalf such service was required cannot show good cause why such service was not made, the action shall be dismissed as to that defendant without prejudice upon the Court's own initiative with notice to such party or upon motion.

C. Assignment of Cases:

If an answer or other responsive pleading is filed, the Clerk of Court shall assign a date for a scheduling pretrial by telephone.

RULE NO. 3.02: SERVICE OF PROCESS

The Clerk of Court shall accept service of process methods as outlined in Civil Rule 4.1 which methods shall include "virtual" service of process utilizing advanced postal technology for service by eCertified mail. This advanced postal technology does not modify Civil Rule 4.1(1), but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation utilizing the court's website to show to whom the mail was delivered, the date of delivery, address where delivered, and the electronic signature of the recipient, all in accordance with the now-existing Civil Rules.

All service of process of complaints or other documents served with virtual services of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through the Clerk's Office.

RULE NO. 3.03: PLEADINGS AND MOTIONS

All motions, unless made during a hearing or trial, shall be in writing and accompanied by a memorandum stating the grounds for the motion and citing relevant authorities. The motion shall not exceed fifteen (15) pages including any supporting documents/exhibits. The Court may allow additional pages by Judgment Entry upon the filing of a motion and for good cause shown. If a party fails to provide a brief or memorandum or exceeds the 15-page limit without leave of Court, the Court may overrule the motion without consideration. Excess pages will be destroyed.

Motions and responses must be filed within the time guidelines set forth in the Ohio Rules of Civil Procedure.

Motions may be ruled on without a hearing unless otherwise requested in writing, at the court's discretion.

Motion to Compel/Discovery Sanctions

No party shall file a motion to compel discovery or a motion for sanctions regarding alleged discovery violations until the parties have contacted the presiding Judge or Magistrate either by telephone conference or in open court to discuss and narrow the issues.

RULE NO. 3.04: SCHEDULING PRETRIAL AND SETTLEMENT CONFERENCE

The Court may set a scheduling pretrial with counsel to establish a case management plan. The Court may also set a settlement conference to narrow and clarify issues, agree to stipulations, and attempt to reach a settlement.

Attorneys and parties are required to appear at the settlement conference and failure to appear may result in sanctions. Counsel attending a settlement conference must have full settlement authority. Insurance adjusters shall be available by telephone

RULE NO. 3.05: CIVIL MEDIATION

The New Philadelphia Municipal Court adopts and incorporates by reference the Ohio Revised Code 2710 "Uniform Mediation Act" (UMA), including all definitions found in R.C. 2710.01, and Sup. R. 16 through this local rule.

This rule does not modify or amend the provisions of the local rule regarding the Tax Resolution Service and the Check Resolution Service insofar as they are criminal cases.

RULE NO. 3.06: JURY DEMAND IN CIVIL CASES

A. Any party desiring a jury trial in a civil case must demand the same in accordance with Rule 38 of the Ohio Rules of Civil Procedure. The jury demand must be in writing by separate instrument. The jury demand must be filed in compliance with the time frame set forth in the applicable Rule.

B. The party demanding the jury in a civil case shall pay the Civil Jury Cost ten (10) days prior to the trial. The cost requirement may be waived upon the presentation of evidence which establishes the indigency of the party demanding the jury, and upon approval of the Judge.

C. Each party shall file a complete set of instructions suitable for charging the jury in the captioned matter no later than the day of the scheduled Final Pretrial.

D. Failure to comply with these requirements may result in a jury waiver or other appropriate sanctions.

RULE NO. 3.07: JOURNAL ENTRIES

The Court shall prepare Journal Entries. However, when ordered by the Court, counsel for the party in whose favor an entry, order, judgment, or decree is entered, shall prepare a proper Journal Entry and submit it to the Court within fourteen (14) days of the order.

RULE NO. 3.08: DEFAULT JUDGMENTS

Motions for default judgement shall be supported by an affidavit of proof of damages. For cases based on an account, the account statement must be submitted, along with proof by affidavit that no subsequent payments have been made on the account. Upon notice to the plaintiff, failure to file a motion for default shall result in dismissal of the complaint for want of prosecution.

RULE NO. 3.09: FORCIBLE ENTRY AND DETAINER

A. Complaint

A complaint in Forcible Entry and Detainer shall be filed and shall set forth the grounds for the eviction. The complaint shall be accompanied by:

1. A copy of the notice under ORC § 1923.04,
2. A copy of the written instrument upon which the claim is founded and,
3. The completed and signed Forcible Entry and Detainer Filing Cover Sheet. No Forcible Entry and Detainer complaint will be accepted by the Clerk without the Cover Sheet.

By order of the Ohio Supreme Court, only the legal titled owner of the rental property, or a licensed practicing attorney, may file a complaint for eviction against a tenant. A corporate officer, L.L.C. member, Trustee, building manager or agent designated by the landlord (other than an attorney) may not sign or file a complaint for eviction, or appear on behalf of, the legal owner in any court proceeding. For further information, see Cleveland Bar Association v. Picklo, 96 Ohio St. 3d 195 (2002). Failure to comply with this requirement may be grounds for dismissal of the case at any stage of the proceedings.

B. Trial

Defendant shall be served with the summons and complaint at least seven (7) days prior to the date set for trial, unless time constraints require otherwise. Motions shall be heard at the trial, unless the assigned Judge or Magistrate directs otherwise.

C. Continuance

A continuance may be granted as provided in Ohio Revised Code § 1923.08 which reads: “No continuance in an action under this chapter shall be granted for a period longer than eight (8) days, unless the plaintiff applies for the continuance and the defendant consents to it, or unless the defendant

applies for the continuance and gives a bond to the plaintiff, with good and sufficient surety, that is approved by the court and conditioned for the payment of rent that may accrue, if judgment is rendered against the defendant.”

D. Enforcement of First Claim Judgment – Writs and Set-Outs

If judgment is for plaintiff on the complaint for Forcible Entry and Detainer, unless otherwise ordered by the Court, the plaintiff may apply for a Writ of Restitution through the Clerk’s Office. Plaintiff shall remit a fee, established by the most recent cost schedule, with the application for the Writ. Plaintiff may apply for the Writ after the Court ordered move-out date has passed and schedule a set-out date and time with the Bailiff.

Writs must be timely applied for. Timely application is determined according to the following:

1. Within thirty (30) days of the date of the judgment unless the judgment orders otherwise.
2. Where the judgment is more than thirty (30) days old, but less than sixty (60) days old, plaintiff must file a Motion for Leave to Apply for a Writ and serve a copy of the motion on the defendant(s). The Court may schedule a hearing on the motion or decide the motion on the filings of the parties. Upon the granting of the motion, plaintiff may remit the fee established by the most recent cost schedule for the Writ and schedule a set-out.
3. Writs must be executed upon (the scheduled set-out must occur) within fifteen (15) business days of issuance by the Clerk’s office. If a set-out is delayed or canceled by the plaintiff, and more than fifteen (15) business days pass after the date the Writ was issued, the plaintiff must apply for a new Writ and pay another fee.

E. Set-Outs

Every set-out scheduled pursuant to a Writ of Restitution shall be supervised by the Bailiff. The actual physical set-out of defendant’s belongings shall be conducted by movers obtained by the plaintiff.

On the scheduled date and time, the Bailiff will meet the plaintiff, or his/her agent, at the premises. The Bailiff may inspect the premises to determine if inhabitants need to be lawfully removed. If there are occupants who refuse to vacate the premises, the Bailiff shall contact the appropriate police agency for assistance. The plaintiff’s movers may then conduct the actual physical set-out.

RULE NO. 3.10: CHANGE OF VENUE CERTIFICATION OF PROCEEDINGS

A. Court as Transferor:

The Clerk shall not transfer any case pursuant to venue change in application of Civil Rule 3(C) until all costs are paid, and, in addition, a check made payable to the transferee court in the sum sufficient to secure its costs is deposited with the Clerk to accompany the file upon transfer. It shall be the responsibility of the plaintiff’s attorney to ascertain the filing cost in the transferee court. Failure to comply with this rule within fourteen (14) days from the date of entry as to change of venue may form the basis for dismissal of the action.

B. Court as Transferee:

The Clerk shall not file and docket any case transferred to this Court pursuant to venue change in application of Civil Rule 3(C) until a sum sufficient to secure costs has been deposited. Failure to comply with this rule within fourteen (14) days from receipt of the file from the transferor court may form the basis for returning the file to the transferor court.

C. Certification to Common Pleas Court:

It shall be the responsibility of any party filing a counterclaim, crossclaim or third-party complaint exceeding the monetary jurisdiction of the court to also file a motion to certify the case to the Court of Common Pleas. The motion shall be accompanied by a check or money order made payable to the Court of Common Pleas, in a sum of not less than the amount specified as security costs for that court. Failure to comply within thirty (30) days of the filing of such counterclaim, crossclaim or third-party complaint shall be grounds for dismissal under Civil Rule 41(B).

RULE NO. 3.11: SMALL CLAIMS

A. Complaint:

A small claims action is commenced by filing a small claims complaint pursuant to ORC § 1925.04. 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. Should the defendant fail to appear for the hearing, a default judgment may be entered.

B. Continuances:

No case scheduled for trial, or hearing may be continued except on written motion and for good cause shown. Such motion shall be filed with the Court not less than seven (7) calendar days prior to the trial or hearing. In the event such continuance is filed by an attorney, a proposed entry **MUST** accompany the motion. In the case of unforeseen emergency, this time requirement may be waived.

C. Transfer to the Regular Civil Docket:

Motions to transfer a small claims case to the regular civil docket shall comply with Ohio Revised Code 1925.10.

APPENDIX A

JURY MANAGEMENT PLAN

RULE 1: SCOPE

This Local Rule of Practice for Jury Management shall govern petit jury assembly, selection and management in the New Philadelphia Municipal Court. It addresses the mandates of Rule 5(B)(2) of the Rules of Superintendence for the Courts of Ohio, requiring each Court to adopt a Jury Management Plan. The Plan addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio in 1993, and Title XXIII of the Ohio Revised Code, amended, effective May 18, 2005. The Rule also takes into consideration the Report and Recommendations of the Supreme Court Ohio Task Force on Jury Service (February 2004) and resulting amendments to the Ohio Rules of Criminal and Civil Procedure, effective July 1, 2005. Its purpose is to implement an efficient and comprehensive system of jury use and management for the New Philadelphia Municipal Court.

RULE 2: JURY POOL

The Judge of the New Philadelphia Municipal Court in conjunction with the Clerk of Court shall administer the jury assembly process. These officials may appoint clerical personnel to aid in the administration of the jury system. Any person appointed to administer the jury assembly process is a jury administrator. Jury service is an obligation of all qualified citizens of the New Philadelphia Municipal Court's jurisdiction. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a recognizable group in the jurisdiction. Pursuant to O.R.C. 1901.25(A), the New Philadelphia Municipal Court provides that jurors may be chosen and summoned by the jury commissioners of the county as provided in O.R.C. 2313. Selection shall be made from residents within the territory and those appearing to reside outside the territory shall be returned to the annual jury list.

RULE 3: MANAGEMENT STANDARDS PRIOR TO THE ISSUANCE OF JURY SUMMONS FOR TRIAL DATE CERTAIN

Prospective jurors shall be summoned only upon notice to the jury administrator from the assigned Judge or the judge's designee. Such action shall be prompted by the filing of a written jury demand, if required by the Ohio Rules of Civil and Criminal Procedure, in cases that have not been resolved at pretrial or other appropriate hearing.

In civil cases, a jury demand fee in an amount indicated in the court's most recent Schedule of Court Costs, shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, the *jury demand fee*, in the amount set by the Schedule of Court Costs shall accompany said pleading. One (1) business day prior to the trial date, the *jury deposit fee* must be received by the Clerk's Office by noon. This *jury deposit fee* (as listed in the Court's most recent Schedule of Court Costs), shall be used to pay the prospective jurors who have been called in response to the jury demand. The *jury deposit fee* will not completely cover the juror expense. The remainder of the juror expense will be added to the court costs of the case at hand. **In the event either *deposit fee* or the *demand fee* is not made, this shall be deemed a waiver of the right to a trial by jury in the civil case.** A person determined to be indigent may petition the Court for a waiver of the jury deposit requirement. No deposit shall be required of a party in a criminal/traffic case.

Every effort shall be made to resolve cases prior to summoning a jury. The Judge or his or her designee shall conduct a final pretrial hearing, at least two (2) weeks prior to the scheduled trial date. If it appears that trial is inevitable, a jury panel shall be summoned upon court order, at least fourteen (14) days in advance of the trial, unless the time limitations in criminal cases pursuant to ORC § 2945.71 are invoked, requiring summons to issue at least seven (7) days prior to the scheduled jury trial. Those costs associated with the summoning of a jury as set by the Court's most recent Schedule of Costs, shall be assessed to the party requesting the jury trial.

In cases where multiple civil trials are set for the same date, jury costs shall be assessed to the last case settled on the date of the jury trial, as substantial efforts have been made by the Court to have all issues resolved prior to trial. If a civil case is settled on the date of the jury trial all lawful costs shall be assessed against the party who requested the jury, unless otherwise agreed by consent entry. If a jury has been sworn at the trial of a civil case, the fees of the jurors shall be paid to the public treasury from which the jurors were paid.

In cases where multiple criminal/traffic trials are set for the same date, the individual jury service payment shall be assessed at the discretion of the judge per agreement of the parties. If the agreement is the defendant is to pay costs, all court costs shall be assessed to the defendant unless otherwise agreed. If the agreement is that the State or the City pay costs, the cost of summoning the jury, as well as other court costs, including the cost of paying juror fees will be assessed to the State or City based on the complaint in the file unless amended, unless otherwise agreed by the parties.

ORC § 2947.23(A)(2)(b) effective May 18, 2005, provides that if a jury has not been sworn at the trial of a criminal case, and the defendant fails to appear without good cause, the costs incurred for that morning's jurors for that particular trial may be included in the costs of prosecution. If the costs incurred in summoning jurors are assessed against the defendant, those costs shall be paid to the public treasury from which jurors were paid.

RULE 4: NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE

Upon notice to a staff member by the Judge of an upcoming jury trial, the jury administrator shall mail to each person whose name is drawn from the jury pool an instructional cover letter, juror summons and juror questionnaire at least fourteen (14) days in advance of the scheduled trial date. (Attachment A). A judge may order prospective jurors to appear upon less notice when, in the course of jury selection, it becomes apparent that additional prospective jurors are required in order to complete jury selection, or where there is not a waiver of speedy trial in a criminal case.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of seventy-five (75) persons per trial shall be summoned for service unless the Court determines that a lesser or greater number is necessary for a particular trial.

Persons summoned for jury service shall receive compensation in the amount designated in the most recent Administrative Journal Entry/Schedule regarding same. Such fees shall be promptly paid from the City Treasury, as appropriate.

Any juror wishing to waive his or her fee for service shall be permitted to do so in writing in the Clerk's Office. All waived fees shall be returned to the City Treasury, as appropriate.

The Summons shall include the following information: the date of service, directions to the Court, parking, public transportation, per diem compensation set by the most current Administrative Journal Entry setting such rate, attire, meals and how to obtain auxiliary aides and services required by the Americans with Disabilities Act. It shall further explain how and when the recipient must respond, the consequences of a failure to respond, and how the recipient may check reporting status by phone.

The Summons shall indicate that the term of service for any prospective panel.

Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service,
2. To excuse or defer prospective jurors,
3. To remove prospective jurors for cause if challenged peremptorily, or
4. To provide all prospective jurors an opportunity to be called for jury service and to be assigned to a panel.

The Questionnaire shall also include the criteria for seeking excusal, postponement, exemption or deferral. Written records shall be kept pursuant to Rule 8 regarding documentation.

RULE 5: QUALIFICATION

The Court shall determine if the prospective jurors are qualified to serve, or if disabled but otherwise qualified, could serve with reasonable accommodation. In order to qualify as a juror, a person shall state under oath or affirmation that he or she is:

1. A citizen of the United States,
2. At least eighteen (18) years of age,
3. A resident of the summoning territorial jurisdiction of the New Philadelphia Municipal Court,

4. Able to read, speak and understand the English language,
5. Not suffering from a physical or mental disability that prevents him or her from rendering satisfactory jury service,
6. Not under a guardianship appointment because of mental incapacity, or
7. Not a person who has had rights to vote revoked by reason of a felony conviction and whose rights to vote have not been restored.

RULE 6: EXEMPTION

Only those exemptions expressly provided by statute, narrowly construed are permitted. A person who is over seventy-five (75) years of age is exempt if the juror requests to be excused. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Such individuals must be excused by the judge presiding over the case for which they have been summoned or by the judge's designee, the jury administrator. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excusal, exemption or deferral must be made on the appropriate form. Once a prospective juror has submitted his or her request for exemption or deferral, the prospective juror must report for service unless otherwise notified by the Court.

RULE 7: DEFERRAL

The Judge or judge's designee may authorize deferral of jury service for up to six (6) months upon a showing of hardship, extreme inconvenience, or necessity (Ohio Jury Management Standard 6). All those deferred will remain in the jury source list or pool for the next year.

RULE 8: DEPARTURES FROM RANDOM SELECTION AND DOCUMENTATION THEREOF

Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service,
2. To excuse or defer prospective jurors, or
3. To remove prospective jurors for cause or if challenged peremptorily.

The facts supporting juror disqualification, exceptions, and deferrals shall be recorded under oath or affirmation. No disqualification, exemption or deferral shall be authorized unless the facts support it. These records shall be kept for a minimum of two (2) years.

RULE 9: TERM OF JURY SERVICE

A person who appears for service as a petit juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service by reporting to the courthouse and being recorded as present for jury service and not deferred, but is not selected and sworn as a juror, completes the person's service in New Philadelphia Municipal Court when jury selection is completed on ten (10) separate days (two weeks).

RULE 10: JUROR SAFETY AND PRIVACY

Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel. The Court shall maintain confidentiality to the extent consistent with constitutional and statutory rights of the parties, and with Ohio's Public Records laws.

RULE 11: JURY ORIENTATION

The Court shall provide prospective jurors with orientation prior to the selection process so that they may understand their role in the legal system. Jury orientation shall include a standard presentation recommended by the Ohio Rules of Superintendence for the Courts of Ohio, Appendix B.

RULE 12: RECORD SHALL BE MADE

Jury selection shall be recorded including all sidebar conferences. The parties may waive this process in civil matters, but only if the waiver is on the record.

RULE 13: JURY PANEL – OATH OR AFFIRMATION BY PROSPECTIVE JURORS

The jury panel consists of those prospective jurors who answered their Summons by reporting for jury service. The Judge or judge's bailiff shall administer the following to the prospective jurors of the jury panel:

“Do you swear or affirm that you will honestly answer any question asked of you during jury selection?”

RULE 14: INTRODUCTION TO CASE

After welcoming the jury panel, the Judge shall introduce the panel to the case. The Judge's introduction to the case shall include at least the following:

1. Introduction of the participants;
2. The nature of the case;
3. The applicable standard of proof;
4. The applicable burden(s) of proof;
5. The presumption of innocence in a criminal case;
6. The appropriate means by which jurors may address their private concerns to the Judge;
7. The appropriate standard of juror conduct;
8. The anticipated course of proceedings during trial; and
9. The rules regarding challenges.

To facilitate the jury panel's understanding of the general nature of the case, with consultation of the parties, the Judge may give jurors a brief introduction to the case. The brief introduction may include a general description of the legal claims and defenses of the parties. Ohio Civil Rule 47(a) and Ohio Criminal Rule 24(A), effective July 1, 2005.

RULE 15: EXAMINATION OF PROSPECTIVE JURY PANEL (VOIR DIRE)

Examination of prospective jurors shall be governed by Ohio Rule of Civil Procedure 47(B) and Ohio Rule of Criminal Procedure 24(B).

Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.

To reduce the time required for voir dire, basic background information regarding panel members shall be made available to counsel in writing for each party on the day on which jury selection is to begin.

The trial Judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

The Judge shall ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process. In the event there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider their questions.

An examination of a prospective juror may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.

RULE 16: NUMBER OF JURORS

In all *criminal* cases in the New Philadelphia Municipal Court, the jury shall consist of eight (8) persons. The court shall determine the number of alternate jurors to be seated. The verdict shall be unanimous.

In all *civil* cases in the New Philadelphia Municipal Court, the jury shall consist of eight (8) persons, unless the parties agree to a lesser number of jurors before the jury is selected. The court shall determine the number of alternate jurors to be seated. The verdict shall conform to existing Ohio law.

RULE 17: CHALLENGE FOR CAUSE

In both civil and criminal cases, the parties shall make all challenges for cause before the jury is sworn to try the case, or upon a showing of good cause for the delay, before the jury retires to deliberate.

If the Judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel.

Such a determination may be made on motion of counsel or by the Judge.

RULE 18: NUMBER OF PEREMPTORY CHALLENGES

Peremptory challenges shall be exercised alternatively as presently established by Ohio Revised Code § 2945.23, Ohio Civil Rule 47, and Ohio Criminal Rule 24. All challenges shall be made in open court. Peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure, and as governed by Procedure 41(C) challenges to prospective jurors, effective 7/1/2005, and Ohio Rule of Criminal Procedure (D) peremptory challenges, effective 7/1/2005.

RULE 19: OATH OR AFFIRMATION OF THE JURY

After the jury has been selected, but before commencement of the trial, the Judge shall administer the following oath or affirmation to the jury, including alternate juror(s):

A. OATH:

“YOU AND EACH OF YOU DO SOLEMNLY SWEAR THAT YOU WILL TRUTHFULLY ANSWER THE QUESTIONS ASKED OF YOU BY THE ATTORNEY FOR THE STATE OF OHIO, CITY OF _____ AND THE DEFENDANT, AND BY THIS COURT IN REGARDS TO YOUR QUALIFICATIONS TO ACT AS A JUROR IN THIS CASE ENTITLED STATE OF OHIO, CITY OF _____ VS. _____ AND THIS YOU SO DO, AS YOU SHALL ANSWER TO GOD.”

B. AFFIRMATION

“YOU AND EACH OF YOU DO SOLEMNLY SWEAR OR AFFIRM THAT YOU WILL DILIGENTLY INQUIRE INTO AND CAREFULLY DELIBERATE ALL MATTERS BETWEEN THE STATE OF OHIO, CITY OF _____ AND THE DEFENDANT. DO YOU SWEAR AND AFFIRM YOU WILL DO THIS TO THE BEST OF YOUR SKILL AND UNDERSTANDING, WITHOUT BIAS OR PREJUDICE, SO HELP YOU GOD?”

RULE 20: PRELIMINARY INSTRUCTIONS

The Court shall instruct the jury before opening statements by reading the appropriate instructions that shall include at least the following:

1. The issues for trial,
2. The credibility of witnesses and the manner of weighing the testimony to be received,
3. That each juror may take notes during the trial and paper shall be provided, but note taking shall not interfere with the attention to the testimony; Ohio Civil Rule of Procedure 47 (E) and Ohio Criminal Rule of Procedure 24,
4. The personal knowledge procedure under Rule 25,
5. The order in which the case will proceed,
6. That jurors may seek to ask questions of the witnesses by submission of questions in writing. (Ohio Rule of Civil. Pro. 47 (F)), and
7. That jurors are not permitted to discuss the evidence among themselves in the jury room during recesses from trial. The Court shall admonish jurors not to discuss the case with anyone other than fellow jurors in their jury deliberation when all has been presented to them, after the instructions.

RULE 21: OPENING STATEMENT

In *criminal* cases, the prosecution shall state briefly the evidence that supports its case. The defense may then state briefly the evidence in support of the defense, but has the choice to decline to make an opening statement. In *civil* cases, the party with the burden of going forward may briefly state the evidence that supports its case. The adverse party may then briefly state the evidence in support of its case.

RULE 22: PRESENTATION OF EVIDENCE

Unless the Court otherwise directs, the party with the burden of going forward shall present evidence first, followed by the presentation of evidence by the adverse party.

RULE 23: JUROR TRIAL BOOKS

In both criminal and civil cases, the Court may authorize the use of juror trial books to aid jurors in the performance of their duties.

Juror trial books may contain:

1. All given instructions,
2. Information regarding the anticipated trial schedule,
3. Witness lists, and
4. Copies of exhibits admitted for trial.

RULE 24: PROCEDURE FOR JUROR WITH PERSONAL KNOWLEDGE IN CRIMINAL CASES.

If the Court receives information that a juror has personal knowledge about the case, the Court shall examine the juror under oath, concerning that knowledge, in the presence of the parties and outside the presence of the other jurors.

If the Court finds that the juror has personal knowledge of a material fact, the juror shall be excused, and the Court shall replace that juror with an alternate. If there is no alternate juror, then the court shall discharge the jury without prejudice, unless the parties agree to submit the cause to the remaining jurors.

RULE 25: JURY VIEW

When the Court determines it is proper, the Court may order the jury to view:

1. The real or personal property which is the subject of the case; or
2. The place in which a material fact occurred.

The place shall be shown to the jury by a person appointed by the court for that purpose. While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial. Counsel for the parties shall have the right to accompany the jury but shall not speak to the jury.

RULE 26: FINAL INSTRUCTIONS

The Court shall read the appropriate final instructions. The Court shall reduce its final instructions to writing or make an audio, electronic or other recording of those instructions, provide at least one written copy or recording of those instructions to the jury for use during deliberations, and preserve those instructions for the record. Ohio Rule of Criminal Procedure 30(A) and Ohio Rule of Civil Procedure 51(A) effective July 1, 2005.

RULE 27: FINAL ARGUMENTS

When the evidence is concluded, the parties may, by agreement in open court, submit the case without argument to the jury.

If the parties argue the case to the jury, the party with the burden of going forward shall open and close the argument. If the party with the burden of going forward declines to open the argument, the adverse party may then argue its case. In criminal cases, if the defense declines to argue its case after the prosecution has made its closing argument, then that shall be the only argument allowed in the case. In criminal cases, the party with the burden of going forward is the prosecution. In civil cases, the party with the burden of going forward is the plaintiff.

RULE 28: ASSISTING JURORS AT AN IMPASSE

If the jury advises the Court that it has reached an impasse in its deliberations, the Court may, but only in the presence of counsel, and in a criminal case, the parties, inquire of the jurors to determine whether and how the Court and counsel can assist them in their deliberative process. After receiving the jurors' response, if any, the Court, after consultation with counsel, may direct that further proceedings occur as appropriate.

RULE 29: SEPARATION DURING DELIBERATION

The Court in its discretion may permit the jury in civil and criminal cases to separate during deliberations. However, before the jurors are permitted to separate, the court shall instruct them that while they are separated, they shall:

1. Not discuss the case among themselves or with anyone else;
2. Not talk to the attorneys, parties or witnesses;
3. Not express any opinion about the case; and
4. Not listen to or read any outside or media accounts of the trial.

RULE 30: JUDGE TO READ THE VERDICT

When the jury has agreed upon its verdict, the jurors shall sign the appropriate verdict form in ink. When the jurors return to the courtroom, the judge shall read the verdict. Upon the request of either party, the Court may poll the jury. If a juror dissents from the verdict, the jury shall again be sent out to deliberate.

RULE 31: MONITORING THE JURY SYSTEM

The Court shall collect and analyze information regarding the performance of this Jury Management Plan to evaluate the composition of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and overall juror satisfaction.

RULE 32: RETENTION OF JUROR QUESTIONNAIRES

All questionnaires completed by jurors, who have not served as a selected juror in a contested case, returned to the Court shall be considered as correspondence retained for a period of one (1) year after

the expiration of the juror's term of service. At the expiration of that one-year period, such records shall be disposed in a manner to ensure the protection of the information on such forms.

ATTACHMENT A

JURY COVER LETTER TEXT

Dear Prospective Juror:

You are hereby summonsed to be a Juror in the New Philadelphia Municipal Court. Enclosed are your Summons and Jury Questionnaire. You must complete this questionnaire and return it to the Court, at the above address, within ten (10) days of receipt.

Jury Service:

Follow the instructions on the summons to confirm whether or not you must report for jury duty. If you are to report as a juror on one of the trial dates, you must report to the Municipal Court Building **no later than 9:00 a.m.** Please enter the building on East High Avenue. Our staff will assist you when you arrive. If you need auxiliary aides or services or other reasonable accommodations, please contact the jury administrator in advance at 330-343-6797, ext. 237.

Parking:

Your parking permit is printed on the reverse side of this letter. Place the parking permit in your front window.

Jury Duty is Mandatory:

You must serve as a juror unless you are excused. Judge Nanette DeGarmo Von Allman cannot excuse you from jury duty unless the reason for the excusal is permitted under Ohio law and you have followed the procedure requesting an excusal.

Jury Excusal/Postponement Procedure:

If you cannot fulfill your obligation to serve at this time, complete Jury Service Excusal/Postponement request portion on the Questionnaire. For a medical release, you **must** provide a medical excuse from your doctor. If the request is work related, a letter signed by your employer is **required**. If due to extreme financial hardship, attach a letter stating your situation. Although your request does not automatically excuse you, every request is considered. You will receive a notice in the mail whether your request has been approved or not. You must still complete the questionnaire part of the form.

Thank you for your cooperation. Your jury service is appreciated.

Julie A. Stamets
Clerk of Court

ATTACHMENT B

JURY SUMMONS TEXT

To Juror:

You have been summoned to appear before the New Philadelphia Municipal Court to serve as a juror on the following dates:

[Insert Dates]

For directions to the Court, please visit our website, www.npmunicipalcourt.org. Public parking is located on East High Avenue and Second Street.

Several restaurants are located nearby. Vending machines are located in the John Knisely City building directly next door to the Municipal Court.

Contact the Court the night before each scheduled trial date after 4:30 p.m. by dialing **330-343-6797**, **then press number 3**. The Court's pre-recorded jury message will inform you whether you must report. You may also check the jury status on the Court's website. Select "Jury Trial Status" to confirm whether you must report. If you are calling from a rotary dial phone, dial **330-343-6535**.

The per diem compensation is \$12.00 per day.

If a jury trial is going forward, you must report to the Municipal Court by **9:00 a.m.** You should enter through the front door of the Memorial Municipal Building on East High Avenue. You will undergo a security screening. Coffee will be provided.

YOUR FAILURE TO RESPOND TO THIS SUMMONS MAY RESULT IN A CITATION FOR CONTEMPT OF COURT.

Julie A. Stamets
Clerk of Court

ATTACHMENT C

**JURY SERVICE QUESTIONNAIRE
JUROR QUALIFICATION
JURY SERVICE EXCUSAL/POSTPONEMENT REQUEST TEXT**

Greetings Juror Number : _____

You have been selected as a prospective juror for the New Philadelphia Municipal Court on the following dates: _____.

PLEASE ANSWER ALL SIX QUESTIONS COMPLETELY. SIGN AND RETURN THIS QUESTIONNAIRE WITHIN TEN (10) DAYS OF RECEIPT.

1. NAME _____ AGE _____
2. ADDRESS _____
CITY, STATE, ZIP _____ TOWNSHIP _____
3. HOME PHONE _____ WORK PHONE _____
4. MARITAL STATUS _____ SPOUSE NAME _____
5. NUMBER OF CHILDREN _____ AGES OF CHILDREN _____
6. OCCUPATION _____ EMPLOYER _____

SIGNATURE _____ DATE _____

JUROR QUALIFICATION:

I hereby swear or affirm under penalty of law that:

1. I am a citizen of the United States,
2. I am at least eighteen years of age,
3. I am a resident of the territorial jurisdiction of the New Philadelphia Municipal Court,
4. I am able to read, speak and understand the English language,
5. I am not suffering from a physical or mental disability that prevents me from rendering satisfactory jury service,
6. I am not under a guardianship appointment because of mental incapacity, or
7. I am not a person who has had my right to vote revoked by reason of a felony conviction and my right to vote has not been restored.

SIGNATURE _____ DATE _____

JURY SERVICE EXCUSAL/POSTPONEMENT REQUEST (Even if you are requesting to be excused/postponed, you still need to complete the above section “Jury Service Questionnaire” and “Juror Qualification”)

Ohio law provides that jurors may ask to have jury report dates postponed, or to be excused **only** under certain circumstances. The Court must follow the law when considering requests to postpone or excuse. Please complete this portion only if you need to make such a request. Check the appropriate reason(s) and attach complete documentation as required.

___ Physical or mental condition of yourself, or another person under your care, that causes extreme hardship or otherwise renders you incapable of performing jury service.

(PROVIDE WRITTEN DOCUMENTATION SIGNED BY A HEALTH CARE PROVIDER VERIFYING THE CONDITION(S) AND DATES OF REQUESTED EXCUSAL)

___ Spouse or near relative has recently died or is seriously ill.

___ Cloistered member of a religious organization or recognized Amish sect.

___ Seventy-five years of age or older and I do not wish to serve.

___ Active-duty military.

___ Full-time high school or college student. **(PROVIDE COPY OF YOUR CLASS SCHEDULE)**

___ Not a citizen of the United States.

___ Extreme financial hardship to you or a person in your care. **(PROVIDE A DETAILED WRITTEN EXPLANATION)**

___ No longer lives within the jurisdiction of the Court and is not eligible to serve.

SIGNATURE _____ DATE _____

TO BE COMPLETED BY THE COURT AND RETURNED PROMPTLY TO JUROR

Your request for jury service excusal/postponement has been considered.

___ You are excused from jury service _____ 20__ calendar year only. _____ Permanently.

___ Your jury service is postponed from _____ and re-scheduled to _____.

___ Please report for jury duty on accordance with the original summons.

Judge/Clerk of Court

Date