

# KETTERING MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURE

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## **GENERAL RULES**

### **RULE NO. 1 SCOPE AND EFFECTIVE DATE**

(A) These Local Rules of Court govern practice and procedure in the Kettering Municipal Court. These Local Rules are intended to be supplemental to the Ohio Rules of Civil Procedure, Ohio Rules of Criminal Procedure, the Ohio Traffic Rules, Supreme Court of Ohio Rules of Superintendence for the Courts (SCO Rules of Superintendence), and all statutes of the State of Ohio, as adopted and amended. They are to be used in conjunction therewith. Should any conflict be found, all rules adopted by the Supreme Court of Ohio and laws enacted shall prevail over these Local Supplemental Rules. These rules may be cited as “Loc. R. x”.

(B) These rules are effective as of **DECEMBER 1, 2019**, and shall supersede and replace any local rules previously entered by this Court.

### **RULE NO. 2 HOURS OF COURT SESSIONS**

The Clerk of Court's Office shall be open when Court is in session, and sessions of the Court shall be conducted Monday through Friday except on holidays. Court sessions may also be scheduled on evenings and weekends to accommodate special circumstances at the Court's discretion.

### **RULE NO. 3 DECORUM AND CONDUCT**

(A) All persons at the Court shall conduct themselves with decorum and in a manner that does not interfere with the proper administration of the Court's business. Although the Court is open to the public, persons attending any Court session who are not parties or called as witnesses may not make any statements unless permitted by the Court and identified on the record. All persons are subject to screening and search upon entering the Courthouse.

For purposes of these Rules, the term “Court” includes any location where a Judge or Magistrate conducts hearings or trials as well as the probation department, Clerk of Court's Office, assignment office, main Court lobby and surrounding areas. The term “courtroom” includes the entire interior area of the courtrooms labeled #1, #2 and #3.

(B) All persons appearing before the Court shall appear in appropriate dress.

(C) All cell phones are to be turned off or silenced in the courtroom and the use of cell phones is not permitted in the courtroom when Court is in session. In the event a person needs to use their cell phone, the person is required to leave the courtroom unless

otherwise permitted by the Court. Tablets, laptop computers, notebooks, cell phones and other electronic devices may not be used in the courtroom except as a research aid or tool during a hearing or trial.

(D) No photography or audio or video recording by the public of any Court proceeding is permitted in the courtroom, without the express permission of the Judge presiding in that courtroom. This applies to all photography and recording devices including cell phones. Anyone discovered to be recording and/or photographing inside the courtroom may be taken immediately before a Judge to be sanctioned. Images captured may be deleted from the device.

(E) Litigants and spectators are not permitted to smoke, eat or drink in the Court, nor shall they bring food or drink into the Court.

(F) No person shall loiter or behave in an unseemly or disorderly manner in the Court, or otherwise interfere with or obstruct judicial activities or proceedings.

(G) Failure to comply with any aspect of this rule may result in appropriate sanction by the Court, including continuance or dismissal of the matter before the Court, confiscation of cell phone or camera pending the conclusion of Court proceedings, or a charge of contempt of Court.

#### **RULE NO. 4 COURT SECURITY**

All visitors of the Kettering Municipal Court shall follow the instructions and orders of the Kettering Municipal Court Judges, assigned or acting Judges, Magistrates or acting Magistrates, Court security personnel, courtroom bailiffs and Clerk of Court in relation to Court security.

#### **RULE NO. 5 VIDEO CONFERENCING OR HEARING**

At the Court's discretion, a party in a case may be permitted to participate in a conference or hearing by audio or video conference, due to geographic distance, incarceration, or other reason where a significant hardship may be caused if that party's personal appearance were required. All hearings shall be recorded in accordance with Loc. R. 20.

#### **RULE NO. 6 MEDIA**

The Court recognizes the public interest in the operation of a Court that is open and accessible to everyone. Recording and broadcasting of proceedings shall be in accordance with Sup. R. 12.

(A) Requests for permission to broadcast, record, photograph or televise in the courtroom shall be made in writing to the Judge to whom the case is assigned as far in advance as reasonably practical, but in no event later than one-half (1/2) hour prior to the courtroom session to be broadcast or photographed, unless otherwise permitted by the Judge. Any permission granted shall be in accordance with Sup. R. 12 and upon such terms as the Court may determine.

(B) Media representatives are responsible for pooling without involving the Court in any way, except to notify the Court of pooling arrangements. Television stations and radio stations must decide which of them shall cover the proceedings. Only one of each may cover any one proceeding. Newsprint media outlets must decide which of them shall cover the proceedings for photographic coverage. Only one photographer may be allowed in the courtroom at any one time. If a dispute arises among or between the media representatives during any proceeding, the Judge may exclude contesting representatives from the remaining case proceedings.

(C) Media representatives must be in designated areas before Court convenes and may leave only during a recess, lunch break or afternoon adjournment. They are responsible for providing their own equipment, including sufficient equipment leads to ensure they are able to be stationed in the designated location. Only existing lighting within the courtroom may be used. No flash lighting is permitted. Media representatives must wear appropriate attire when on courtroom assignment.

(D) Limitations:

i. No media recording of proceedings in a Judge's chambers or access to the chambers shall be permitted

ii. There shall be no audio pickup or broadcast of conferences conducted in Court between attorneys and clients or co-counsel or of conferences conducted at the bench between attorneys and the Judge.

iii. No media recording shall be permitted in the jury deliberation room at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors shall be permitted at any time.

iv. Victims and witnesses have the right to object to being filmed, videotaped, recorded or photographed. No media recording of victims of sexual assaults, confidential informants and undercover police officers shall be permitted.

v. In the courtroom, no media recording shall be made of any document or exhibit before or after it is admitted into evidence, except those which are clearly visible to spectators (e.g. maps, charts, blackboards, etc.).

(E) Revocation of permission:

- i. Upon the failure of any media representative to comply with the conditions prescribed by this rule, the Judge, Sup. R. 12, or these Local Rules, the Judge may revoke the permission to record and/or broadcast the proceedings.

#### **RULE NO. 7 MAGISTRATES**

The Court may employ one or more Magistrates who may hear cases by reference, and in accordance with Traf. R. 14, Crim. R. 19, Civ. R. 53, and Sup. R. 19.

#### **RULE NO. 8 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 criminal/traffic schedule is attached as Appendix A. The civil/small claims schedule is attached as Appendix B. Offenses for which a Court appearance may be waived are noted in Appendix C with the accompanying required payment amount. The schedules are available at the Clerk of Court's Office and are posted on the Court's website at [www.ketteringmunicipalcourt.com](http://www.ketteringmunicipalcourt.com).

#### **RULE NO. 9 FRIVOLOUS ACTIONS AND VEXATIOUS LITIGATORS**

(A) If the Court, *sua sponte* or on motion by a party, determines that an action is frivolous or is filed for delay, harassment or any other improper purpose, it may impose appropriate sanctions on the person who signed the complaint or action, a represented party or both. The sanctions may include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or any other sanction the Court deems just. An action shall be considered frivolous if it is not reasonably well-grounded in fact or warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.

(B) If a party habitually, persistently and without reasonable cause engages in frivolous conduct under section (A) of this rule, the Court may find the party to be a vexatious litigator *sua sponte* or on the motion by a party. If the court determines that a party is a vexatious litigator under this rule, the Court may impose filing restrictions on the party. The restrictions may include prohibiting the party from instituting legal proceedings in the Court without first obtaining leave or any other restriction the Court considers just.

## **RULE NO. 10 APPEARANCE AND WITHDRAWAL OF ATTORNEY**

(A) APPEARANCE. Attorneys practicing before this court (except for *pro se* litigants) shall designate their capacity as trial attorney on all pleadings, motions or petitions filed in this court. All such documents shall bear, in addition to the signature of trial attorney, attorney's name, email address (if any), mailing address and zip code, business telephone and fax number (if any), as well as the number of attorney's Supreme Court of Ohio Certificate of Registration, as provided by Ohio Gov. Bar R. VI, § 4. A law firm shall not be designated as the trial attorney. Upon the entry of appearance of an attorney, all journal entries, court documents, court orders and trial assignments shall be served upon the designated attorney at the email address that the attorney provides the Kettering Municipal Court.

(B) PRO HAC VICE. An attorney who is not admitted to practice law in the State of Ohio may not appear on behalf of another individual or entity in Court without the permission of the Judge or Magistrate. The motion for permission shall be in writing and shall attach a copy of the Certificate of Pro Hac Vice Registration obtained from the Supreme Court of Ohio. It shall certify that the attorney is admitted to practice law in the highest court of another state or in the District of Columbia and that the attorney is not a resident of this state. The request must be cosigned by an attorney admitted to the practice of law in this state and registered under the Rule VI of the Rules for the Government of the Bar of Ohio. If the Judge or Magistrate grants the applicant's motion for permission to appear pro hac vice, the applicant must file a Notice of Permission to Appear Pro Hac Vice and a copy of the order granting permission with the Office of Attorney Services at the Ohio Supreme Court within 30 days.

(C) WITHDRAWAL. Once an appearance is made, an attorney may withdraw from a case only with leave of Court. Withdrawal shall be permitted only by 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. The motion shall be filed no less than seven days prior to the next scheduled hearing, unless otherwise permitted by the Court.

## **RULE NO. 11 COURT APPOINTED ATTORNEY**

Any person charged with a criminal or traffic misdemeanor, other than a minor misdemeanor or other non-jailable offense, found by the Court to be in need of an attorney and indigent, may be considered for an appointment of an attorney. The Court may refer the person to the Montgomery County Public Defender's Office for legal representation, or the Court may appoint a private attorney for the person. Private attorneys shall be chosen from the Kettering Municipal Court Appointed Attorney list. Further, when exceptional circumstances exist and for good cause, the Judge may appoint a practicing attorney from the Kettering Municipal Court Appointed Attorney list to a specific case.

## **RULE NO. 12 ASSIGNMENT OF CASES TO JUDGES**

Assignment of cases shall be by random lot with the intention of evenly dividing cases between the two Judges of the Kettering Municipal Court. If one Judge self-recuses from a case due to a conflict of interest stated on the record in open Court or noted by written entry filed with the Clerk of Court, said case shall be immediately assigned to the remaining Judge. If each of the two Judges has a conflict in the same case, the court administrator will contact the Supreme Court of Ohio to request the assignment of another Judge for that case.

## **RULE NO. 13 REQUEST FOR INTERPRETER**

In a criminal, traffic or civil case, the party requesting a court-appointed interpreter or translator shall make a written request to the Court at least three days before the date of the trial or hearing. The translator request shall state the specific language required and any dialect, if applicable. The Court may waive the written request requirement. Upon receiving the request, the Court will determine if an interpreter or translator is necessary. The expenses for the interpreter or translator in a civil case shall be taxed as part of the costs awarded to the prevailing party, unless otherwise directed by the Court. In a criminal or traffic case, the interpreter or translator expenses shall be paid out of the Court general fund.

## **RULE NO. 14 MOTIONS AND PLEADINGS**

(A) 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, and the Ohio Rules of Civil Procedure unless a different time is ordered by the Court.

(B) All motions and pleadings shall be legibly typewritten or printed on paper sized 8.5 inches by 11 inches.

(C) A party shall, at the time of filing a motion, serve upon the opposing party a copy of the motion with supporting statement or memorandum and shall file proof of service with the Clerk of Court in accordance with Civ. R. 5 or Crim. R. 49, as applicable.

(D) Failure to comply with the formal requirements as set out above may be grounds for striking the non-complying document from the Court's files. For good cause shown, the Judge or Magistrate may waive this requirement for cases involving small claims, forcible entry and



detainer or other types of cases or proceedings in the interest of justice. The Clerk of Court may accept requests in letter form for traffic and criminal cases regarding continuance, reinstatement of driving privileges, and other similar proceedings.

(E) All motions and briefs containing references to statutes or regulations other than the Ohio Revised Code, Ohio Administrative Code or the Ohio Rules of Court shall have attached to the motion or brief a copy of the statute or regulation. Copies of unreported court decisions cited or referred to in a motion or brief shall also be attached to the motion or brief.

#### **RULE NO. 15 CONTINUANCE OF TRIAL OR HEARING**

(A) All motions for continuances shall be submitted to the Court in writing and shall include a brief statement setting forth the reasons requiring the continuance.

(B) When a continuance is sought for the reason that the attorney is scheduled to appear in another case assigned for hearing on the same date in another Court, the attorney shall attach a copy of the notice received from the other court. Motions for continuance sought due to a conflict in hearing or trial schedule shall be ruled upon in accordance with Sup. R. 41(B).

(C) Motions for continuance will be granted at the discretion of the Court for good cause shown when submitted in accordance with the above. A continuance that has not been ruled on by the date of the hearing shall be considered denied.

#### **RULE NO. 16 METHOD OF FILING**

(A) FILING BY MAIL OR IN PERSON. All complaints, pleadings, motions and other documents in either civil or traffic/criminal cases may be filed directly with the Clerk of Court in person during regular Court hours. All pleadings, motions or other documents filed by mail shall be deemed filed as of the date the Clerk file-stamps the document received.

(B) FAX FILING. All documents filed with the Clerk of Court by facsimile transmission must be legible when received by the Clerk of Court. The Clerk may reject any document which is illegible, in whole or part.

The provisions of this local rule are adopted in accordance with Civ.R.5.(E), Civ.R.73(J), and, Crim.R.12(B).

All pleadings, motions and acceptable documents may be filed with the Clerk of Court by facsimile transmission to 937-534-7017 subject to the following conditions:

i. APPLICABILITY. These fax rules apply to Civil, Small Claims, Traffic, Criminal proceedings in the Kettering Municipal Court. Original documents requiring a filing fee or cost will not be accepted for fax filing.

ii. ORIGINAL FILING. 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 the source document filed by fax and confirmation of a successful facsimile until the case is closed and all opportunities for appeal have been exhausted.

iii. COVER PAGE. The person filing a document by fax shall also provide therewith a cover page containing the (1) case number; (2) sender's name; (3) contact information of sender to include fax number, phone number and e-mail address; and (4) total number of pages being faxed.

If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at his or her discretion:

- a. enter the document in the Case Docket and file the document; or
- b. deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document **shall not** be considered filed with the Clerk of Court.

The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. The burden of confirming the receipt of a completed facsimile transmission is on the sending party.

iv. SIGNATURE. A party who wishes to file a signed source document by fax shall either fax a copy of the signed source document, or fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person on the applicable signature line (e.g., /s/John T. Smith).

v. EXHIBITS. Each exhibit to a facsimile filed 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 three (3) business 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 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.

Faxed or emailed affidavits must contain an inked or printed notary seal that is visible on the transmitted document.

vi. TIME OF FILING. Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk of Court as of the date and time the Clerk file-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 filing may only be transmitted directly through the facsimile equipment operated by the Clerk of Court, and may not be sent directly to the Judges for filing.

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 required to verify receipt of such filing by the Clerk of Court through whatever technological means are available, including checking the Court's website.

vii. FEES AND COSTS. No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing. Documents tendered to the Clerk without payment of court cost and fees or which do not conform to applicable rules will not be filed.

No additional fee shall be assessed for facsimile filings.

viii. LENGTH OF DOCUMENT. Facsimile filings shall not exceed 25 pages in length. The filer shall not transmit copies to the Clerk for service.

(C) FILING BY ELECTRONIC TRANSMISSION (eFILING). Pursuant to SCO Sup. R. 27, Ohio Traf. R. 3 and ORC Chapter 1306, the use and filing of a traffic ticket or criminal citation that is produced by a computer or other electronic means is hereby authorized by the Court.

i. TRAFFIC CITATIONS

a. The electronically produced citation or ticket shall conform in all substantive respects (including layout and content) to the Ohio Uniform Traffic Ticket.

- b. A law enforcement officer who files a ticket electronically shall be considered to have certified the ticket and shall have the same rights, responsibilities and liabilities as with all other tickets issued pursuant to Ohio Law or local codified ordinance.

The Clerk of Court shall maintain records of electronically filed tickets in accordance with the requirements of Ohio Law, including Ohio Revised Code Section 1306.11, and these local rules.

#### **RULE NO. 17 EMAIL NOTIFICATION**

When any traffic or criminal case is scheduled for a Court appearance, notification of said Court appearance date and time shall be sent by electronic mail (“email”) to the defendant’s attorney of record and the prosecuting attorney. Email notifications will be sent for all Court appearances, including but not limited to pre-trials, hearings and trials.

All attorneys practicing before the Court shall provide the Court with an email address. If the attorney’s email addresses changes, it is the attorney’s responsibility to inform the Court.

*Pro se* defendants and *pro se* civil litigants shall continue to receive all Court appearance notifications conventionally in paper form either in person or by regular U.S. mail.

For civil cases, notification may be made by U.S. mail or electronic transmission.

#### **RULE NO. 18 SIGNATURE**

(A) **HARD COPY DOCUMENTS.** The original of every document filed in the Court shall be signed by an attorney representing the party on whose behalf the document is filed. A party who is not represented by an attorney shall sign the document being filed.

(B) **ELECTRONICALLY TRANSMITTED DOCUMENTS.** The Court will also accept documents which are signed electronically, either by an electronic signature, or without an electronic signature but with the notation “/s/” followed by the type-printed name of the signing person (e.g., /s/ John T. Smith).

- i. **Accepted Filings:**

- a. All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or by *pro se* litigants.

- b. Any signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all practical purposes.

- c. If it is established that the documents were transmitted without authority, the court may order the document stricken.
- d. No attorney shall authorize any person to electronically file on that attorney's behalf, other than his or her employee or a service provider retained to assist in electronic filing.
- e. The electronic filing of a document by an attorney, or by another under the authorization of the attorney, or by a party not represented by an attorney, shall constitute a signature of that attorney or party under Ohio Civ. R. 11.
- f. No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.

#### **RULE NO. 19 PUBLIC RECORDS AND ORIGINAL RECORDS**

All public records filed in the Clerk of Court's Office are available for examination to any person upon reasonable request during regular business hours. Copies of documents may be provided upon request and within a reasonable time period at a cost to be determined by the Clerk of Court as permitted by law and SCO Rules of Superintendence. The current docket for all cases can also be obtained through the Court's website.

(A) **WITHDRAWAL OF FILES.** No file(s), whether civil, traffic or criminal, may be removed from the Court building without the written consent of the Judge and the Clerk of Court.

(B) **DISCLOSURE OF INFORMATION.** The Clerk shall not provide a copy of any document, except as provided by law or ordered by the Court, without redacting (1) social security numbers (last four digits are public), (2) financial account numbers such as debit and card numbers, and (3) employer and employee identification numbers.

#### **RULE NO. 20 COURT RECORD RECORDING AND TRANSCRIPTS**

(A) All traffic, criminal and civil proceedings shall be recorded, and unless otherwise ordered, shall be the official record of Court proceedings. Upon prior notice to and order of Court, a party in any case may request to have a court stenographer present to record the proceedings. No fees for a court stenographer will be taxed as cost or otherwise paid by anyone other than the party providing the court stenographer.

(B) The Court shall maintain custody and control of the electronic recording of proceedings. The Court will maintain all electronic recordings as determined by the Court's retention schedule.

(C) A party may obtain a full or partial transcript from an electronic recording in the following two ways:

- i. By making a written request for the transcript to the court reporter who took the record. Upon payment of a deposit the court reporter shall prepare the transcript.
- ii. By purchasing a copy of the official recording from the Court and having the recording transcribed by a certified court reporter.

Due to the volume of transcript requests, the Court may direct requests for transcripts to outside court reporting agencies.

In the case of an appeal, the expense of the preparation of the transcript may be taxed as costs and assessed against the losing party on appeal.

#### **RULE NO. 21 COURT RECORD RETENTION**

Records of the Kettering Municipal Court and Clerk of Court Office shall be created, maintained and preserved in a form and according to Rules 26, 26.01, and 26.05 of the SCO Rules of Superintendence, the Kettering Municipal Court Retention Schedule (Appendix D) and any general schedules adopted by the Court.

Pursuant to Sup. R. 26 (C), the Court maintains a combined record of indexes, dockets and journals in the electronic medium of the case information management system. All records may be retained in their original format or converted to electronic or digital format. If any paper record is converted to an electronic or digital format, the paper media record may be destroyed and the electronic/digital record retained as the alternative to the paper record.

After the retention period expires, the records may be destroyed or otherwise disposed of pursuant to Sup. R. 26, unless the records must be retained by law. Any record of the Kettering Municipal Court and Clerk of Court's Office that is not listed in Sup. R 26 to 26.05 or covered under the Kettering Municipal Court Retention Schedule or general schedules of the Court or under law shall be retained until that record is considered to be of no value by the person holding the record.

#### **RULE NO. 22 JURY MANAGEMENT PLAN**

This Jury Management Plan is created in compliance with the SCO Rules of Superintendence and is intended to reflect the guidelines and requirements of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio, the Ohio Revised Code, the Ohio Rules of Criminal Procedure and the Ohio Rules of Civil Procedure. The Jury Management Plan is attached as Appendix E.

## **CRIMINAL/TRAFFIC**

### **RULE NO. 23 COURT COSTS FOR CRIMINAL/TRAFFIC CASES**

See Appendix A.

### **RULE NO. 24 CRIMINAL/TRAFFIC CASE MANAGEMENT**

(A) **ARRAIGNMENT.** Arraignment dates are typically assigned by the law enforcement officer issuing the complaint or citation. For defendants who have been physically arrested and detained, the arraignment will be scheduled on the next available arraignment date following arrest.

In accordance with Ohio Crim. R 10(B), the Court may permit a defendant by or through their attorney to waive formal arraignment without the presence of the defendant for the purpose of entering a not guilty plea in writing. A written "not guilty" plea must be entered prior to the date scheduled for arraignment. A written "not guilty" plea shall be filed along with the attorney's notice of appearance and a waiver of the right to a speedy trial. Failure to follow this procedure may result in the Court requiring the Defendant and attorney to appear in person for the arraignment date.

A defendant may request a reasonable continuance of initial arraignment by filing a written notice prior to the date scheduled for arraignment, unless otherwise permitted by the Court.

(B) **PRETRIAL CONFERENCES.** Misdemeanor cases may be scheduled for a pretrial conference by the assignment commissioner upon request of the defense attorney, the prosecutor or on the Court's own motion. A pretrial conference will not be scheduled unless the defendant is represented by an attorney and a time waiver has been filed with the Clerk of Court. All other misdemeanor cases shall be set for trial unless a Judge orders a pretrial conference for a specific case.

The pretrial conference shall be conducted in accordance with Crim. R. 17.1 and, if necessary or ordered, a memorandum of the matters agreed upon shall be filed in the case. Any attorney who fails to appear for pretrial conference without just cause being shown may be subject to sanctions, including imposition of costs and/or removal from the case. Failure of the defendant to appear for pretrial conference may result in the issuance of a warrant for the defendant's arrest. Additional pretrial conferences may be conducted only upon the approval of the Court.

(C) TRIALS. Each case not resolved at a pretrial conference shall be set for motion hearing or for trial, unless it is an offense for which a jury trial is automatically required by law. If a jury trial is required by law or a jury demand is timely filed in a case, the case will be moved to the jury trial schedule. There is no right to a jury trial when the offense does not carry a potential jail sentence as part of its penalty. Failure of the defendant to appear for trial may result in the issuance of a warrant for the defendant's arrest.

(D) SENTENCING. Sentencing shall be conducted at the conclusion of the trial unless a pre-sentence report is requested by the Court. If the Court requests a pre-sentence report, the Court will schedule a sentencing hearing.

#### **RULE NO. 25 WAIVERS FOR VIOLATION OF CODIFIED ORDINANCES AND OHIO REVISED CODE**

Pursuant to the requirements of Crim. R. 4.1(E), and Traf. R. 13, the Court adopts a Waiver Schedule attached hereto as Appendix C.

#### **RULE NO. 26 BAIL BOND SCHEDULE**

In the time period prior to the defendant's initial appearance before a Judge or Magistrate, the Clerk and/or arresting police authority are authorized to release a person charged with a misdemeanor criminal or traffic offense based on the Bail Bond Schedule established by administrative order. The Bail Bond Schedule is attached as Appendix F.

### ***CIVIL/SMALL CLAIMS***

#### **RULE NO. 27 CIVIL COURT COSTS**

Unless the amount specified in the Civil/Small Claims Court Costs Schedule has been paid, no action, proceeding, motion or other document shall be accepted for filing by the Clerk of Court. The schedule of Court costs in the Civil Division is set by administrative order and attached as Appendix B. 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 Court.

#### **RULE NO. 28 CIVIL CASE MANAGEMENT**

(A) SERVICE. Sufficient copies of the complaint shall be filed with the Clerk to accomplish service of process, if required, in accordance with Ohio Civil Rules of Procedure. In the event the Court receives notice of failure of service, the Clerk of Court shall notify the party seeking service. If plaintiff or plaintiff's attorney fails to obtain service of the summons and complaint



within six months from the date the case has been filed, the Court shall notify plaintiff or plaintiff's attorney that the case may be dismissed pursuant to Ohio Rules of Civil Procedure Rule 41.

(B) ANSWER AND ASSIGNMENT. If an answer or other responsive pleading is filed, the Clerk of Court shall forward the file to the Assignment Office.

(C) PRETRIAL CONFERENCES. For the purpose of this rule, "pretrial conference" shall mean a Court supervised conference. The term "party" or "parties" means the party or parties to the action and/or his/her/their attorney of record. Notice of pretrial conference shall be given to all attorneys of record. Attorneys are required to appear at scheduled pretrial conferences. Failure to appear may result in sanctions.

i. Attorneys attending the pretrial conference must have authority to stipulate on items of evidence and must have settlement authority, or have their clients available to do so. The primary purpose of the pretrial conference shall be to discuss settlement, discovery schedules and deadlines and trial preparation.

ii. Each attorney shall present to the Court in writing a statement of the issues involved, the matters stipulated, and the questions of law which are to be resolved by trial.

iii. Each attorney shall present in writing to the Court an itemization of all special damages claimed, if any.

iv. Each attorney shall present to the Court in writing a statement indicating the names of all witnesses, both expert and non-expert, expected to be called at trial; whether a view will be requested; and whether a jury trial, if previously demanded, will be waived.

v. Each attorney shall come to the pretrial fully prepared and authorized to negotiate toward settlement of the case.

vi. Each attorney shall give their best estimate of the time required to try the case.

Pretrial conferences shall be in person unless otherwise pre-approved by the Court.

The Court shall attempt to narrow legal issues, to reach stipulations of facts in controversy and, in general, to shorten the time and expense of the trial. The Court may file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it in the pretrial. The Court shall, at that time,

determine whether or not trial briefs should be submitted and shall set a date when they are to be filed.

(D) JURY TRIALS. In all civil jury cases, attorneys for all parties to the action shall furnish to the Court no later than seven business days before the date of trial, a brief of the issues, the law and proposed instructions for the jury. All trial briefs and proposed jury instructions are required to be exchanged with opposing counsel at the time of filing.

(E) SETTLEMENT. Upon notice of settlement of any civil case, including cases on the small claims or forcible entry and detainer docket, the Court may, in its discretion, continue a pretrial conference. Unless otherwise ordered by the Court, a notice of settlement is not grounds to continue a trial or other evidentiary hearing. Final settlement, by agreed judgment entry, dismissal or other, must be fully executed and filed with the Court prior to the date of the hearing or trial.

(F) FAILURE TO APPEAR. The Judge or Magistrate shall have the authority to dismiss the action for want of prosecution on motion of defendant upon failure of plaintiff and/or his or her attorney to appear in person at any pretrial conference or trial. The Judge or Magistrate may also order the plaintiff to proceed with the case and to decide all matters *ex parte* upon failure of the defendant or attorney to appear at any pretrial conference or trial.

#### **RULE NO. 29 JOINDER AND SEPARATION OF CASES**

(A) Motions for joinder, consolidation and separation of civil cases shall be addressed to the assigned Judge. The Clerk of Court shall be provided with a sufficient number of copies of any motion filed in accordance with this rule to include a copy in each file affected by the motion. Failure to comply with this provision will result in such partial filing being stricken.

(B) If joinder or consolidation is permitted, all cases so joined will be assigned or transferred to the Judge holding the case with the lowest case number.

(C) If separation is permitted, the originally assigned Judge shall retain the case bearing the lowest case number.

#### **RULE NO. 30 CIVIL JURY DEMAND**

(A) Any party desiring a jury trial in a civil case must demand the same in accordance with the Ohio Rules of Civil Procedure. The jury demand must be in writing, by separate instrument, or by prominent endorsement in the caption of a pleading. The jury demand must be filed in compliance with the time frame set forth in Civ. R. 38(B).

(B) The party demanding the jury at the time the demand is made shall pay the Jury Demand Civil Cost. 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 assigned to the case.

(C) Failure to comply with these requirements will result in a jury waiver.

### **RULE NO. 31 PROCEEDINGS IN AID OF EXECUTION**

The order in aid of execution shall provide for the attendance of the parties named on a date not less than fourteen (14) days from the date of the order. The deposit(s) and costs required by the Court schedule of fees and deposits shall be made with the Clerk of Court at the time of the filing of the affidavit. No alias writ or order shall be allowed unless there has been failure of service on the writ and only after an additional deposit is made with the Clerk.

### **RULE NO. 32 DEFAULT AND SUMMARY JUDGMENTS**

(A) A motion for default judgment shall be in writing and clearly state the date the complaint was filed, how service was made, proof of service and answer date. A motion for default judgment shall contain a list of damages supported by documentary or other evidence. A proposed entry shall accompany the motion.

(B) All motions for summary judgment filed pursuant to Civ. R. 56 will be set for non-oral hearing on the fifteenth day following service of the motion upon the adverse party, unless a different time is set by Court order. The adverse party shall serve and file opposing affidavits and memorandum prior to the day set for non-oral hearing. An oral hearing on a motion for summary judgment will not be conducted unless by order of Court. Assignment of a summary judgment motion for oral argument shall not alter time periods for serving and filing briefs and permitted evidentiary materials unless specifically ordered by the Court. If the adverse party also files a motion for summary judgment, the hearing date shall be calculated based on the service date of the latter motion.

### **RULE NO. 33: FORCIBLE ENTRY AND DETAINER**

(A) In forcible entry and detainer (FED) actions, summons shall be issued in the form as specified in the Ohio Revised Code and shall be served as specified in the Ohio Rules of Civil Procedure.

(B) Complaints in actions in FED shall be set for hearing on the appearance docket within 21 days from the date of filing, and shall be heard by a Judge or Magistrate.

(C) At the time set for the FED hearing, plaintiff (the landlord/owner) or plaintiff's attorney of record shall be present in the Court. Failure to comply with this rule may result in dismissal of the case.

(D) In the event the defendant/tenant (hereinafter "tenant") fails to appear at the FED hearing, no restitution shall be ordered unless testimony is taken from plaintiff (the landlord/owner) or their attorney regarding the proper form and service of the required notice under the Ohio Revised Code and tenant's failure to pay rent when due or other reason why restitution of the property is being sought.

(E) If plaintiff is successful in the eviction action, the Court will order that tenant vacate the premises by issuing an order for the restitution of premises. The plaintiff may request a writ of restitution to cause the restitution of the premises to plaintiff. The bailiff shall serve tenant with the writ of restitution by posting a copy at the premises, or by personal service.

(F) The writ of restitution shall include the move out date. If tenant has not vacated the premises before the move out date, the bailiff will evict tenant and restore the premises to plaintiff.

(G) The writ of restitution shall inform the tenant that:

- i. the Court has granted restitution of the premises to plaintiff and set a date for move out;
- ii. the tenant must vacate and remove all personal property before the move out date;
- iii. on the move out date tenant will be forcibly evicted under the supervision of the bailiff;
- iv. any personal property not removed before the move out date will be considered abandoned and subject to disposal by plaintiff.

(H) If tenant vacates the premises before the scheduled move out date, plaintiff or plaintiff's attorney shall immediately notify the bailiff and the move out will be canceled.

(I) If tenant has not vacated the premises within 24 hours of the scheduled move out date, plaintiff or plaintiff's attorney shall notify the bailiff that a move out is still necessary and the

move out will proceed as scheduled. Failure of plaintiff or plaintiff's attorney to notify the bailiff that the move out is still necessary may result in cancellation of the move out date.

#### **RULE NO. 34 SMALL CLAIMS**

(A) A small claims action is commenced by filing a small claims complaint pursuant to ORC 1925.04. The Clerk of Court shall accept claims for filing and shall not provide legal advice. No defendant is required to file an answer or statement of defense. A timely counterclaim or crossclaim may be filed. If the defendant fails to appear for the hearing, however, after being duly served, then the hearing may proceed without the defendant present and a judgment may be entered. All pleadings will be construed to accomplish substantial justice.

(B) CONTINUANCES. A request for a continuance of a case set for hearing in the small claims division should be in writing and directed to the attention of the Clerk of Courts not less than seven calendar days prior to the hearing date, unless otherwise permitted by the Court.

(C) TRANSFER TO THE CIVIL DOCKET. Upon the timely filing of a counterclaim or cross-claim in excess of \$6,000.00, a civil action pending in the small claims division shall be transferred to the regular civil docket. After transfer, the defending party shall have 28 days from judicial assignment to move or plead in response to the counterclaim or cross-claim. A civil action pending in the small claims division without a counterclaim or cross-claim in excess of \$6,000.00 may, in the discretion of the Court, be transferred to the regular civil docket upon its own motion or upon the motion of any party filed at least seven days before trial. An untimely motion to transfer may be stricken from the file. A jury demand shall not be allowed in a case filed in the small claims division unless the case is properly transferred to the regular civil docket. A party seeking to file a jury demand must comply with Loc. R. 30 regarding civil jury demands.

(D) HEARING. The hearing in small claims court may be conducted by the Judge or Magistrate. The Judge or Magistrate shall place all parties who plan to offer evidence under oath and then allow the plaintiff and defendant to state their case. The plaintiff and defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure will not apply to a hearing in small claims Court, except as the Court deems necessary in the interests of justice.

#### **RULE NO. 35 MAGISTRATE'S DECISION**

(A) The Magistrate's decision shall be filed with the Clerk of Court and served upon the parties with notice of the of the fourteen (14) day period to file objections with the Court. The notice shall advise the parties that failure to timely file objections is a waiver of any objections.

(B) OBJECTIONS TO MAGISTRATE'S DECISION. Objections to the Magistrate's decision should be stated in accordance with Civ. R. 53.

(C) JUDGMENT ENTRIES. The Court shall independently review the Magistrate's Decision, rule on any objections, and enter the appropriate judgment entry.

**RULE NO. 36 SATISFACTION OF JUDGMENT**

No satisfaction of judgment shall be entered by the Clerk of Court unless and until all Court costs have been paid.

APPENDIX A

KETTERING MUNICIPAL COURT  
CRIMINAL/TRAFFIC COURT COST SCHEDULE

Cost Category	Traffic Cases: Moving Violations	Traffic Cases: Non-Moving Violations	Criminal Cases	Parking Cases
Local Costs	\$63.00	\$72.00	\$72.00	
Victim of Crime/Reparations Fund (State cost)	\$ 9.00		\$ 9.00	
Indigent Defense Support fund (State cost)	\$25.00	\$10.00	\$20.00	
Drug Law Enforcement, Indigent Alcohol Treatment Justice Program Services Fund (State cost)	\$ 5.00			
Computerization Fund (per violation)				
- Court	\$ 3.00	\$ 3.00	\$ 3.00	\$ 3.00
- Clerk of Court	\$10.00	\$10.00	\$10.00	\$10.00
Special Projects Fund (per violation)	\$10.00	\$10.00	\$10.00	\$10.00
Miami Valley Crime Stoppers Fund (County cost)			\$ 1.00	
<b>TOTAL GENERAL COURT COSTS:</b>	<b>\$125.00</b>	<b>\$105.00</b>	<b>\$125.00</b>	<b>\$23.00</b>

OTHER COSTS and FEES

Appeals:

Local Cost (payable to Kettering Municipal Court)	\$25.00
2 <sup>nd</sup> District Court of Appeals Cost Deposit (payable to Montgomery County Clerk of Court)	\$100.00
Bail Surcharge (State Cost - applies when bond is posted predisposition for any offense other than non-moving traffic offenses)	\$25.00
BMV - ALS Appeals, Driving Privileges, Stays (OVI cases)	\$25.00
Checks Returned for Non-sufficient Funds	\$25.00
Commitment Papers	\$5.00

Copies:

Certified Copy (per page)	\$3.00
Certified Copy of Order of Expungement (requiring reopening of file) (\$5.00 ea add'l)	\$20.00
Plain paper copies (per page)	\$.05
Credit Card Transaction Fee	\$3.00
Driving Permit/Modification	\$15.00
Ignition Interlock Device (State cost)	\$5.00
Immobilization Waiver (State cost)	\$50.00
Interstate Compact Violation	\$25.00
Jail Booking In/Out (Montgomery County cost)	\$10.00
Jail Video Arraignment (Montgomery County cost)	\$5.00
Jail Transportation Fee (to bring Defendant personally before judge)	\$5.00
Jury Costs:	
Calling of Jury	\$25.00
Cost per case (plus postage, costs vary and shared by cases on docket)	\$25.00
Juror fee per Juror who appears but is not seated	\$10.00
Juror fee per Juror who is seated	\$20.00
License Forfeiture	\$25.00
Moraine Cases (transfer fee from Moraine Mayor's Court)	\$4.65
Probation Costs:	
Supervised Probation Fee	\$150.00
Unsupervised Probation Fee	\$50.00
Did Not Show Summons (each occurrence)	\$25.00
Public Defender Application Fee (State cost)	\$25.00
Sealing of Record/Expungement Filing Fee	\$100.00
Service Costs:	
Certificate of Mailing (ordinary mail service)	\$5.00
Certified Mail	\$15.00
Commercial Carrier (FedEx, etc.)	\$20.00
Subpoena Costs (each witness)	\$3.00
Supplemental Summons—Parking, Did Not Show, Other	\$10.00
Traffic Safety Program, One Violation (add \$50 for each additional violation)	\$175.00
Traffic Safety Program online course fee (payable to vendor and subject to change)	\$24.95
Vehicle Registration Block	\$15.00
Warrant	\$40.00
Warrant Block	\$15.00
Witness Costs (per witness):	
Half Day	\$6.00
Full Day	\$12.00



## APPENDIX B

**KETTERING MUNICIPAL COURT  
CIVIL/SMALL CLAIMS COURT COSTS SCHEDULE**

**FILING FEES**

Amended Complaint (plus \$15.00 for each additional defendant)	\$15.00
BMV Appeals - Implied Consent, 12-point, FRA, Other (OVIs filed in OVI case)	\$135.00
Certificate of Judgment Filing (from another court)	\$20.00
Civil General Complaint (plus \$15.00 for each additional defendant)	\$135.00
Counterclaim (plus \$15.00 for each additional defendant)	\$15.00
Crossclaim (plus \$15.00 for each additional defendant)	\$15.00
Dog Designation Appeals	\$135.00
Forcible Entry and Detainer Complaint – one cause (plus \$15.00 for each additional defendant)	\$145.00
Forcible Entry and Detainer Complaint – two causes, includes certified mailing at initial filing (plus \$15.00 for each additional defendant)	\$155.00
Small Claims Complaint (plus \$15.00 for each additional defendant)	\$55.00
Transfer from Small Claims to Regular Civil Docket	\$80.00
Trusteeship	\$135.00

**EXECUTIONS**

Certificate of Judgment Issuance	\$10.00
Citation in Contempt Praecipe (plus service fees)	\$35.00
Execution Against Chattels (plus levy deposit)	\$75.00
Garnishments:	
Bank (plus \$1.00 check payable to Garnishee, i.e., bank, company)	\$45.00
Wage	\$125.00
Order in Aid Proceeding - Debtor's Examination (plus service fees)	\$35.00
Order of Sale	\$25.00
Writ of Restitution	\$100.00

**DEPOSITS**

Jury Demand (additional deposit may be required)	\$500.00
Levy of Execution on Mobile Home	\$350.00
Levy of Execution on Personal Property	\$200.00
Personal or Residential Service by Sheriff (additional deposit may be required)	\$50.00

**MOTIONS**

Change a Real Party in Interest	\$25.00
Modify Judgment	\$25.00
Revive Judgment	\$25.00
Set Aside Judgment	\$25.00

**OTHER FEES/COSTS**

Alias Summons (including to revive judgment) – each party, via certified mail	\$15.00
Appeals:	
Local Cost – payable to Kettering Municipal Court	\$25.00
2 <sup>nd</sup> District Court of Appeals Cost – payable to Montgomery County Clerk of Court	\$100.00
Checks Returned for Insufficient Funds	\$25.00
Copies:	
Certified	\$3.00
Plain paper	\$.05
Credit Card Transaction Fee	\$3.00
Driving Permit Modification	\$15.00
Exemplified Copy of Judgment	\$15.00
Service Fees:	
Certified Mail Service	\$15.00
Commercial Carrier Service (FedEx)	\$20.00
Ordinary Mail Service (with certificate of mailing)	\$5.00
Personal or Residential Service by Bailiff (each person)	\$25.00
Publication Service	\$25.00
Service on Secretary of State (additional \$5.00 check required for each additional defendant payable to the Secretary of State)	\$25.00
Subpoena costs:	
Praecipe (per witness subpoenaed, plus service fees)	\$10.00
Check/Money Order payable to each witness	\$6.00
Warrant (bench warrant)	\$40.00

**FILING FEES ON NEW CASES - BREAKDOWN**

	<b>BMV Appeals, General Civil Cases, Dog Appeals and Trusteeships</b>	<b>Forcible Entry &amp; Detainer (Eviction) Cases</b>	<b>Small Claims Cases</b>
Local Cost	\$ 79.00	\$ 89.00	\$24.00
Legal Aid Assessment	\$ 26.00	\$ 26.00	\$11.00
Court Computer Fund	\$ 3.00	\$ 3.00	\$ 3.00
Clerk Computer Fund	\$ 10.00	\$ 10.00	\$ 5.00
Special Projects Fund I	\$ 5.00	\$ 5.00	\$ 5.00
Special Projects Fund III	\$ 5.00	\$ 5.00	-0-
Publication Fee	\$ 7.00	\$ 7.00	\$ 7.00
<b>TOTAL filing fee:</b>	<b>\$135.00</b>	<b>\$145.00</b>	<b>\$55.00</b>

## APPENDIX C

### KETTERING MUNICIPAL COURT VIOLATIONS BUREAU SCHEDULE

Pursuant to Ohio Traffic Rule 13 and Ohio Criminal Rule 4.1, the following schedule shall be followed in all traffic and criminal cases within the jurisdiction of this Court, with the exception of the City of Moraine where any schedule posted by the City of Moraine Mayor's Court shall apply to those cases pending in Moraine Mayor's Court.

The effective date of this schedule is **1 September 2019**. This schedule supersedes all previous schedules or amendments published by this Court.

The following offenses shall not be processed by the violations bureau:

1. Indictable offenses
2. Operating a motor vehicle while under the influence of alcohol or any drug of abuse
3. Leaving the scene of an accident
4. Driving while under suspension or revocation of driver's license or commercial driver's license when jail is a possible penalty
5. Driving without being licensed to drive when jail is a possible penalty
6. A third moving traffic offense within a twelve-month period when jail is a possible penalty
7. Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child
8. Willfully eluding or fleeing a police officer
9. Drag Racing
10. Drug offenses

The waiver amounts listed in the "First Offense" and "Second Offense" columns represent the amount of the fine imposed and applicable court costs. The Clerk shall retain the court costs as set by separate Rule of Court, with the balance distributed in accordance with Ohio law.

If a defendant is cited for multiple violations on one case and chooses to pay the waivable violations, the Clerk shall only assess the local court cost once per case and shall reduce the waiver amount for the multiple violations accordingly.

There shall be no deviation from this waiver schedule, except by order of Court.

**WAIVERABLE TRAFFIC OFFENSES**

	<b>First Offense</b>	<b>Second Offense if Within Year of First Offense</b>
Assured Clear Distance	\$210.00	\$260.00
Emergency/Public Safety vehicles (minor misd.):		
Fail to Yield to	\$225.00	Must appear
Following/Parking Near	\$225.00	Must appear
Stop Signals/Signs	\$225.00	\$275.00
Traffic Direction Violation	\$225.00	\$275.00
Explosives – Vehicles Transporting	\$255.00	\$305.00
Fail to Comply		
With Law Enforcement Officer (minor misd.)	\$225.00	Must appear
With School Crossing Guard (minor misd.)	\$225.00	Must appear
Fail to Control/Weaving	\$210.00	\$260.00
Fail to Yield	\$210.00	\$260.00
Flee & Elude Traffic Stop (minor misd.)	\$225.00	\$275.00
Injurious Materials – Placing on Street	\$190.00	\$240.00
Left of Center	\$210.00	\$260.00
Littering from Vehicle	\$190.00	\$240.00
Load Limits	Based on weight; see ORC 5577.99	Based on weight; see ORC 5577.99
Operator’s License violations:		
Expired (minor misdemeanor)	\$160.00	\$210.00
No Motorcycle Endorsement (unclassified)	\$275.00	\$325.00
None (unclassified)	\$275.00	\$325.00
Suspended (unclassified)	\$275.00	\$325.00
Parking violations related to:		
Bus Stop/Taxicab Stands	\$ 65.00	\$ 65.00
Commercial Vehicles	\$ 65.00	\$ 65.00
Fire Lane	\$ 85.00	\$ 85.00
Handicapped Areas	\$275.00	\$275.00
Truck Loading Zones	\$ 65.00	\$ 65.00
All Other Parking Violations	\$ 45.00	\$ 45.00
Reckless Operation (minor misd.)	\$255.00	Must appear
Seatbelt violations:		
Child Restraint	\$150.00	\$150.00
Driver	\$135.00	\$135.00
Passenger	\$125.00	\$125.00

Speeding violations		
1-10 mph over	\$150.00	\$200.00
11-15 mph over	\$165.00	\$215.00
16-20 mph over	\$185.00	\$235.00
21-25 mph over	\$210.00	\$260.00
26-30 mph over	\$230.00	\$280.00
31+ mph over	Must appear	Must appear
Unreasonable for Road Conditions	\$175.00	\$225.00
Squealing Tires/Horn Blowing	\$165.00	\$215.00
Stop Sign, Red Light, Yield Sign	\$210.00	\$260.00
Tinted Window violations	\$165.00	\$215.00
All Other Minor Misdemeanor/Traffic	\$160.00	\$210.00

**DISTRACTED DRIVING AS A CONTRIBUTING FACTOR IS THE ABOVE AMOUNT PLUS \$100.00 ON VIOLATIONS LISTED IN ORC Section 4511.991.**

#### WAIVERABLE CRIMINAL OFFENSES

	First Offense	Second Offense if Within Year of First Offense
Alcohol:		
In Motor Vehicle (open container)	\$225.00	\$275.00
Other	\$170.00	\$220.00
Animal cases:		
Animals at Large (minor misdemeanor)	\$185.00	\$235.00
Barking Dog	\$185.00	\$235.00
No Dog License	\$155.00	\$205.00
County Quarantine violation	\$170.00	\$220.00
No Kennel Registration	\$160.00	\$210.00
Disorderly Conduct (minor misdemeanor)	\$275.00	Must appear
Littering, not from vehicle (minor misdemeanor)	\$185.00	\$235.00
Operate Ice Cream Truck Without Permit	\$185.00	\$235.00
Parks cases:		
In Park After Hours	\$160.00	\$210.00
Possess Alcohol in Park	\$160.00	\$210.00
Violating Park Rules/Regulations	\$160.00	\$210.00
Leash Law/Duties of Pet Owner in Park	\$160.00	\$210.00
Prohibited Acts in Park	\$160.00	\$210.00
Peddlers, Regulations of	\$185.00	\$235.00
Public Intoxication (minor misdemeanor)	\$275.00	Must appear
Other Minor Misdemeanor/Criminal	\$275.00	\$325.00

## APPENDIX D

### KETTERING MUNICIPAL COURT RETENTION SCHEDULE

<b>Record Type</b>	<b>Retention Period</b>
<b>Administrative Records</b>	
Administrative Journal	Permanent
Annual Reports (two copies)	Permanent
Bank Records	3 years, or until issuance of audit, whichever is later
Cash Books	3 years, or until issuance of audit, whichever is later
Communication Records	Until no longer considered to be of value by the person holding the record
Correspondence and General Office Records	Until no longer considered to be of value by the person holding the record
Drafts and Informal Notes	Until no longer considered to be of value by the person holding the record
Employment Applications	2 years
Employee Benefit and Leave Records	3 years, or until issuance of audit, whichever is later
Employee History and Discipline Records	10 years after termination
Fiscal Records	3 years, or until issuance of audit, whichever is later
Grant Records (Court copy)	3 years after expiration of grant
Payroll Records	3 years, or until issuance of audit, whichever is later
Publications received	Until no longer considered to be of value by the person holding the publications
Receipt Records	3 years, or until issuance of audit, whichever is later
Requests for Proposals, Bids and Resulting Contracts	3 years after the expiration of the contract awarded pursuant to RFP
Supreme Court of Ohio Judges' Monthly Reports	5 years

<b>Financial Records</b>	
Auditor Reports	Permanent
Monetary Records, including Bank, Cash Book and Receipts Records	3 years after issuance of audit report
Rental Escrow Account Records	5 years after last date of deposit with Court
Trusteeship Account Records	5 years after last date of disbursement to Creditors by Trustee
Yearly Reports	Permanent
<b>Case Records</b>	
Index, Docket and Journal	25 years
Civil Case Files	2 years after date of final Court order or issuance of audit report
Operating A Vehicle Under the Influence Case Files (Known as OVI or DUI)	50 years after date of final Court order
Traffic Case Files (Misdemeanor, Except for OVI Cases)	25 years
Traffic Case Files (Minor Misdemeanor)	5 years after date of final Court order
Criminal Case Files (Misdemeanor)	50 years after date of final Court order (or as provided by law)
Criminal Case Files (Minor Misdemeanor)	5 years after date of final Court order
Unclassified Misdemeanors	5 years after date of final Court order, unless the underlying offense is Operating a Vehicle Under the Influence, in which case 50 years after date of final Court order
Parking Ticket Records	Until ticket is paid and after issuance of audit report
Search Warrant Records	5 years after date of service or last service attempt
Audio and Video Recordings	5 years after the last recorded date on the recording
Exhibits, Transcripts and Depositions	Up to 60 days after written notice to retrieve is sent to tendering party
Probation Records	5 years after completion of terms of probation, 5 years pre-sentence and administrative reports
Jury Management Records	2 years after the expiration of the jury term
Records Not Listed on this Schedule	Until no longer considered to be of value by the person holding the record

## **APPENDIX E**

### **KETTERING MUNICIPAL COURT JURY MANAGEMENT PLAN**

#### **1. Scope**

This Local Rule 26 Jury Management Plan is created in compliance with the Supreme Court of Ohio Rules of Superintendence and is intended to reflect the guidelines and requirements of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio (hereafter referred to as SCO Standards), the Ohio Revised Code and the Ohio Rules of Criminal and Civil Procedure.

#### **2. Administration of the Jury System**

The responsibility for administration of the jury system shall be vested exclusively in the Kettering Municipal Court. All procedures concerning jury selection and service shall be governed by Ohio Rules of Court and the laws of the State of Ohio. The office of the Clerk of Court shall implement the Court's jury system. The Clerk of Court or his/her designee shall serve as the jury commissioner for the purpose of random selection of potential jurors and selecting jury panels unless the presiding Judge designates some other person to serve in that position on a regular or temporary basis.

#### **3. Opportunity for Service**

The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction. Jury service is an obligation of all qualified citizens.

#### **4. Jury Source List and Random Selection Procedures**

Potential jurors shall be drawn from a jury source list which shall constitute a list of all registered and current voters residing within the jurisdiction of the Court, including equal, random selection procedures using automated data processing equipment in accordance with these local rules and the provisions of R.C. Chapter 2313.

The jury commissioner shall annually obtain the full current list of registered voters in the Court's jurisdiction from the Montgomery/Greene County Boards of Elections ("BOE") for potential jury trials scheduled during the year. Each time a new list of prospective jurors is obtained from the BOE and the names are entered into the source list of the Court's electronic jury management system, the previous source list shall be purged from the jury management



system.

The Court may annually review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible. If the Court determines that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

Random selection processes shall be utilized to select a pool of 5,000 prospective jurors from the source list and to assign prospective jurors to specific panels scheduled during the year for assignment during voir dire, unless otherwise specified by the Court. Departures from random selection shall be permitted in order to:

- a. exclude persons ineligible for service;
- b. excuse or defer prospective jurors;
- c. remove prospective jurors for cause or if challenged peremptorily;
- d. provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel; and/or
- e. assure that a prospective jury panel is representative, diverse and fair.

## **5. Notification and Summoning Procedures**

All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned. All prospective jurors may be required to complete a jury questionnaire and, if appropriate, request an excuse, exemption or a deferral. The summons shall be phrased to be readily understood by an individual unfamiliar with the legal process, and shall be delivered by ordinary mail. The summons shall also clearly explain how and when the recipient must respond and the consequences of his/her failure to respond. The jury commissioner shall remove from the jury source list or pool any summons returned for lack of receipt or other reasons indicating that the prospective juror would not be eligible to serve as a juror in the Kettering Municipal Court.

Prospective jurors shall be summoned for jury trial dates determined by the Court. Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of eighty (80) persons per jury date shall be summoned for service unless the Court determines that a lesser or greater number is necessary.

## **6. Eligibility for Jury Service**

All persons should be eligible for jury service except those who:

- a. are less than eighteen years of age;
- b. are not citizens of the United States;
- c. are not residents of the jurisdiction in which they have been summoned to serve;
- d. are not able to communicate in the English language; or

- e. have been convicted of a felony and have not had their civil rights restored.

## **7. Term of and Availability for Jury Service**

The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice. Jurors shall be “on-call” to serve one day or the completion of one trial. Jurors are instructed to call the Clerk’s office designated phone number the night before their jury service is scheduled to begin or consult the alternate designated media to hear a message which informs them about their jury service requirements. If the trial is cancelled, their jury service is considered complete.

## **8. Exemption, Excuse, and Deferral**

Prospective jurors shall only be excused or exempt from jury services for reasons authorized by statute or Rules of Superintendence.

Persons excused from service may be deferred and may be subject to jury service at a later time. Persons requesting a deferral may have their jury service postponed for up to six (6) months. All those deferred into the next jury year will remain in the jury source list or pool for that year.

Prospective jurors shall make all requests for exemptions, excuses and deferrals prior to the date of jury service by appearing in person at the Clerk of Court’s office or by contacting the Clerk or their designee by telephone, in writing or by electronic mail. A person shall be excused from jury service only by a Judge, jury commissioner, or such other person specifically authorized by the presiding Judge to excuse jurors. Once a prospective juror has submitted his/her request, the prospective juror must report for service unless otherwise notified by the Court. The Clerk’s designee shall notify all jurors receiving exemptions, excuses or deferrals and shall maintain a record of the time of and reasons for each excuse in the Court’s automated jury management system.

## **9. Voir Dire – Jury Selection Process**

Voir dire examination shall be governed by Ohio Rules of Civil and Criminal Procedure and be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror’s fairness and impartiality.

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

The trial Judge should conduct a preliminary voir dire examination. Attorneys 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.

In criminal cases, the voir dire shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

#### **10. Removal from the Jury Panel for Cause**

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

#### **11. Peremptory Challenges**

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

In civil cases, the number of peremptory challenges shall not exceed three for each side. If the Court finds that there is a conflict of interest between parties on the same side, the Court may allow each conflicting party up to three peremptory challenges.

In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

#### **12. Juror Use**

The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity.

#### **13. Jury Facilities**

The Court shall attempt to provide an adequate and suitable environment for jurors, including waiting, jury seating in the courtroom and deliberation areas. The deliberation room shall be safe and secure, and include space, furnishings and facilities conducive to reaching a fair verdict.

To the extent feasible, juror facilities shall be arranged to minimize jurors' contact with parties, attorneys, and the public.

#### **14. Juror Compensation**

Persons summoned for jury service shall promptly receive compensation in an amount determined by Court order or fee schedule. Any juror wishing to waive his fee for service shall be permitted to do so in writing in the Clerk's office.

Employers are prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

#### **15. Juror Orientation and Instruction**

The Court shall provide prospective jurors with orientation prior to the selection process to increase their understanding of the judicial system and their role in the legal process. Jury orientation shall include a presentation containing elements recommended by the SCO Standards.

All communications between the Judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open Court. The attorney for each party shall be informed of such communication and given the opportunity to be heard.

#### **16. Jury Size and Unanimity of Verdict**

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

#### **17. Jury Deliberations**

Jury deliberations shall take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making, and shall conform to existing Ohio law. The Judge shall instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with SCO Standards, Ohio Rules and laws.

A jury should not be required to deliberate after a reasonable hour unless the trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

Training should be provided to personnel who escort and assist jurors during deliberation.

#### **18. Sequestration of Jurors**

A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

The trial Judge shall have the discretion to sequester a jury on the motion of an attorney or on the Judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

The trial Judge and Court staff shall be responsible for ensuring that standard procedures are followed to achieve the purpose of sequestration and minimize the inconvenience and discomfort of the sequestered jurors. Training shall be provided to personnel who escort and assist jurors during sequestration.

#### **19. Monitoring the Jury System**

The Court shall collect and analyze information regarding the performance of the jury system to evaluate the representativeness and inclusiveness of the jury source list; the effectiveness of qualification and summoning procedures; the responsiveness of individual citizens to jury duty summonses; the efficient use of jurors; and the cost-effectiveness of the jury management system.

#### **20. Enforcement of Rules**

The Court reserves the right within its sound discretion to enforce these rules and otherwise use and manage the jury system to ensure justice.

## Appendix F

### MONTGOMERY COUNTY MUNICIPAL AND COUNTY COURTS' BOND SCHEDULE

*Adopted Pursuant to Ohio Crim. R. 46(G) - Effective August 1, 2017*

#### UNIFORM BOND SCHEDULE

DEGREE OF OFFENSE	IN-STATE BOND	OUT-OF-STATE BOND
1 <sup>st</sup> Degree Misdemeanor and M1 Traffic	\$2,500 Cash/Surety or 10%	\$5,000 Cash/Surety or 10%
2 <sup>nd</sup> Degree Misdemeanor	\$2,000 Cash/Surety or 10%	\$4,000 Cash/Surety or 10%
3 <sup>rd</sup> Degree Misdemeanor	\$ 750 Cash/Surety or 10%	\$1,500 Cash/Surety or 10%
4 <sup>th</sup> Degree Misdemeanor	\$ 500 Cash/Surety or 10%	\$1,000 Cash/Surety or 10%
Minor Misdemeanors	\$ 100 Cash/Surety or 10%	\$ 200 Cash/Surety or 10%

#### EXCEPTIONS TO ABOVE BOND SCHEDULE

OFFENSE	IN-STATE BOND	OUT-OF-STATE BOND
Domestic Violence <b>DOES</b> meet criteria ORC §2919.251(A) "Amy's Law"	<ul style="list-style-type: none"> <li>➢ No bond IF Judge will see w/in 24 hours</li> <li>➢ \$25,000 Cash/Surety or 10% + No contact with Victim if Judge will NOT see w/in 24 hours</li> </ul>	<ul style="list-style-type: none"> <li>➢ No bond IF Judge will see w/in 24 hours</li> <li>➢ \$50,000 Cash/Surety or 10% + No contact with Victim if Judge will NOT see w/in 24 hours</li> </ul>
Domestic Violence <b>Does NOT</b> meet criteria ORC §2919.251(A) "Amy's Law"	\$10,000 Cash/Surety or 10% + No contact with Victim	\$20,000 Cash/Surety or 10% + No contact with Victim
Menacing by Stalking	\$10,000 Cash/Surety or 10% + No contact with Victim	\$20,000 Cash/Surety or 10% + No contact with Victim
Violating Protection Order	\$10,000 Cash/Surety or 10% + No contact with Victim	\$20,000 Cash/Surety or 10% + No contact with Victim
Intimidation of Victim/Witness	\$10,000 Cash/Surety or 10% + No contact with Victim	\$20,000 Cash/Surety or 10% + No contact with Victim
Voyeurism (M1 - M3)	\$10,000 Cash/Surety or 10% + No contact with Victim	\$20,000 Cash/Surety or 10% + No contact with Victim
Child Enticement w/ sexual motive (M3)	\$10,000 Cash/Surety or 10% + No contact with Victim	\$20,000 Cash/Surety or 10% + No contact with Victim
Domestic Violence Threats (M4)	\$ 5,000 Cash/Surety or 10% + No contact with Victim	\$10,000 Cash/Surety or 10% + No contact with Victim
OVI – Third Offense (UM)	\$10,000 Cash/Surety or 10%	\$20,000 Cash/Surety or 10%
Driving under Suspension under O.R.C. §4510.11 (M1)	\$ 1,500 Cash/Surety or 10%	\$ 3,000 Cash/Surety or 10%