FAIRBORN MUNICIPAL COURT LOCAL RULES

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FAIRBORN MUNICIPAL COURT
2022 JUN 30 PM 1:07
FAIRBORN CITIZENS COURT
MELISSA A. LITTERAL
CLERK OF COURTS

It is hereby ordered that the following rules are adopted for the administration of cases and regulation of practice and procedure of this Court effective July 1, 2022, until otherwise ordered. All previous rules and orders are hereby revoked. These rules and orders shall be recorded by the Clerk in the volume of the Journal reserved for that purpose.

IT IS SO ORDERED.

Judge Beth W. Cappelli

Effective: 7-1-2022

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ADDRESS/TELEPHONE DIRECTORY

www.fairbornmunicipalcourt.us
Fairborn Municipal Court
1148 Kauffman Avenue
Fairborn, Ohio 45324
(937) 754-3040

Assignment Commissioner.....	(937) 754-3042
Bailiff.....	(937) 754-3043
Clerk of Court/Court Administrator	(937) 754-3040
Fax.....	(937) 879-1735
Fax.....	(937) 879-4422
Civil/Small Claims.....	(937) 754-3044
Criminal/Traffic.....	(937) 754-3040
Magistrate.....	(937) 754-3045
Judge's Office.....	(937) 754-3045
Fax.....	(937) 879-4422
Probation Department.....	(937) 754-3110

COURT ADMINISTRATION & GENERAL RULES

Rule 1.01 SCOPE & EFFECTIVE DATE

These rules are adopted as Local Rules of Court governing practice and procedure in Fairborn Municipal Court. They are adopted pursuant to the Court's inherent authority as set forth in Rules of Civil and Criminal Procedure and Rules of Superintendence. The rules stated herein shall be cited as Fairborn Municipal Court Rule (FMC Rule ____). They are effective as of July 1, 2022, and shall govern all proceedings subsequent to that date.

Rule 1.02 OFFICE HOURS & HOLIDAYS

The hours for the Fairborn Municipal Court and for the Clerk of Court's office to be open to the public shall be from 7:30 a.m. to 4:00 p.m. Monday through Friday, except on legal holidays and at such times as ordered by the Administrative Judge.

The Court shall be closed on the following days:

1. New Year's Day
2. Martin Luther King Day
3. President's Day (In-service for employees)
4. Memorial Day
5. Juneteenth
6. Independence Day
7. Labor Day
8. Columbus Day (In-service for employees)
9. Veteran's Day
10. Thanksgiving Day
11. The Day after Thanksgiving
12. Christmas Eve as of 10:30 a.m.
14. Christmas Day
14. New Year's Eve as of 10:30 a.m.

Rule 1.03 CLERK OF COURT

The Clerk shall maintain such dockets, book of record and indices as and are required by law as public record.

Rule 1.04 VIOLATIONS BUREAU
A Traffic Violations Bureau is hereby established in accordance with Ohio Traffic Rule 13, with authority to process and dispose of those traffic offenses for which no court appearance is required. In accordance with Ohio Rules of Criminal Procedure Rule 4.1, there is hereby established a Misdemeanor Violations Bureau, with authority to process and dispose of misdemeanor offenses for which no court appearance is required. A schedule of fines has been adopted and is available in the Clerk's Office or on the Court's website.

Rule 1.05 ACTING JUDGES
All Acting Judges shall sit as Judges on the regular docket and shall have all the powers thereof.

Rule 1.06 MAGISTRATES
The Magistrate shall be appointed by the Presiding Judge. Actions may, upon motion of any party or on the Court's initiative, be referred to a Magistrate. Unless otherwise limited by the order of reference, the Magistrate shall have all powers conferred by Civil Rule 53, Traffic Rule 14, and Criminal Rule 19 and all proceedings, decisions, orders, and objections, if any, shall be governed by Civil Rule 53, Traffic Rule 14, and Criminal Rule 19.

Rule 1.07 COPIES
The Clerk, upon proper request, shall make copies according to public record. The expense of the copies shall be prepaid by the requesting party as set forth in the attached appendix pertaining to costs.

Rule 1.08 PAPERS FILED WITH THE COURT
All papers offered for filing with the Court shall be typewritten or printed on single-sided 8-1/2 by 11-inch paper. Original documents attached or offered as exhibits and official court forms supplied by the Clerk are exempt from the requirements of this rule. A blank space of at least two (2) inches shall be left at the top of the first page. Every filing shall contain the appropriate case caption, case number, attorney's name and Supreme Court registration number, the firm, if any, office address, telephone number, e-mail address and fax number of counsel; or, if there is not an attorney, the pro se party's respective information. All parties are responsible for notifying the Court of any change of address or email address.

Rule 1.09 ATTORNEY OF RECORD
All attorneys of record shall file a notice of appearance on behalf of their client. All documents filed on behalf of one or more parties represented by counsel shall be signed by one attorney and include the attorney's Supreme Court number and e-mail address. All notices and communications from the Court and all documents required to be served will be sent to the designated attorney. An attorney who has entered an appearance in a case may only withdraw as attorney upon order of the Court.

All motions for withdrawal of counsel shall be in writing and must either be signed by the client giving consent to the withdrawal or signed by substitution of counsel, unless otherwise ordered by the court.

Rule 1.10 FILINGS

1. **Fax:** Filings will be accepted by facsimile by the Clerk as long as the filing does not require any filing fee to accompany it. The facsimile copy shall be considered the original unless authenticity is challenged by a party or the Judge or Magistrate orders otherwise. The Clerk shall accept facsimile filings twenty-four (24) hours a day. If the Clerk receives a facsimile filing after four o'clock (4:00 p.m.), the filing shall be deemed filed on the next business day on the date and time the clerk time stamps the document received. It remains the filing party's responsibility to serve all parties and to ensure that the Clerk received the faxed communication.

2. **Internet Electronic**: Documents filed electronically shall conform to the requirements of these Local Rules and the most current version of the Court's Administrative Order regarding Electronic E-filing. The filing party, or if represented, counsel, shall be responsible for determining the most current version of the Administrative Order and complying with it.

3. **Electronically produced tickets:** The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized. The electronic ticket shall conform in all substantive respects with the "Ohio Uniform Traffic Ticket." If the electronic ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket in accordance with Traffic Rule 3(E) and in a format approved by the Court.

4. **Electronically produced criminal complaint and summons:** The use and filing of a criminal complaint and summons that is produced by a computer or other electronic means is hereby authorized with the exception of Warrant on Complaints/Probable Cause warrants. The criminal complaint and summons produced by computer or other electronic means shall conform in all substantive respects to the "Ohio Rules of Criminal Procedure". If a criminal complaint and summons is issued at the scene of an alleged offense, the issuing officer shall serve the defendant a paper copy of the criminal complaint and summons as required by Ohio Criminal Rule 4 (D).

A law enforcement officer who files a criminal complaint and summons produced by computer or electronic means, 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.

Rule 1.11 ELECTRONIC SERVICE

Where an electronic mail address has been filed with the court by affixing the same to any document or by the filing of a separate notice of electronic mail address, service on the attorney or party by electronic mail shall constitute service pursuant to Ohio Civil Rule 5 and Ohio Criminal Rule 49. "Documents" for purposes of the rule are notices sent by the court to an attorney or party of court appearances, hearings, or trials. All notices shall be affixed or signed by electronic signature. An electronic signature is authorized for all court personnel and clerks and executed or adopted by a person with the intent to sign the electronic record. No employee may utilize another employee's electronic signature.

Rule 1.11.1 INTERNET ELECTRONIC FILINGS or E-Filing

The Fairborn Municipal Court has implemented a pilot project to convert to an electronic filing system. Upon successful implementation of the pilot project, the Clerk of Court will execute a phased plan to require the electronic filing of additional case types in 2023.

All filers using the electronic filing system shall register as users in the e-filing system before they may electronically file any document. Registration shall be free of charge. During registration, the filer will be required to provide a valid email address and create a password. All registered users will be responsible for updating their email address, physical address, and any other contact information in a timely fashion following any change. The username and password combination will be used to file, receive, review, and retrieve electronic documents. Each registrant will be responsible for the security, use, and confidentiality of the unique username and password.

1. **Definitions.**
The following terms in this Rule shall be as follows:

a. Electronic Filing ("e-filing" or "efiling") –The process of transmitting a digitized source document electronically via the Internet to the Clerk's office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted.

b. Electronic Mail (email or e-mail)–Messages sent by a user and received by another through an electronic service system utilizing the public Internet.

c. Source Document –The document created and maintained by the filer which is then electronically transmitted to the Court.

d. Original Document means the transmitted copy of the source document received by the Clerk of Courts that becomes part of the court record and is maintained in the Court's file.

e. Date and Time of Filing means the date and time the Clerk of Courts has received the entire transmission of the filing, unless rejected. (See filing acceptance below.) The date and time of receipt will be indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts.

f. Electronic Signature – An electronic sound, symbol or process that is attached to, or logically associated with, an electronic record and that is executed or adopted by a party with the intent to sign the electronic record. Or signatures by an attorney or party indicated by the typewritten name of that person preceded by "s/".

g. Personal Identifiers - Shall have the same meaning as provided in Sup. R.44(H).

h. PDF/A – An ISO-standardized version of the Portable Document Format (PDF) specialized for the long-term digital preservation of electronic documents.

i. An e-mail transmission means the transmission of a source document through the Court's email system to a specified email address. These transmissions are not to be confused with the Court's efiling System.

2. **Application of Rules and Orders.**

Unless modified by approved stipulation or order of the Court or a judicial officer, all applicable Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules, and orders of the Court shall continue to apply to documents electronically filed.

(A) In matters where electronic filing is authorized, the electronically filed document will be part of the official court record. Paper records, if maintained, will be considered a copy of the official court record.

(B) All electronically filed pleadings must be signed, by electronic signature or by hand by an attorney admitted to practice in the State of Ohio or party not represented by such an attorney.

(1) Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court shall order the filing stricken. All documents containing notarizations shall be electronically filed only as a hand-signed scanned PDF document. The notary seal shall be visible. If there is a dispute the document must be produced at the time of the hearing.

(2) No attorney shall authorize anyone to electronically file on that attorney's behalf, other than his/her employee or a service provider retained to assist in electronic filing.

(3) The electronic filing of a document by an attorney, or by another under the authorization of said attorney, or by a party not represented by an attorney shall constitute a signature of that attorney or party under Ohio Civil Rule 11.

(4) No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.

(C) The electronic filing service shall be available twenty-four hours per day, seven days a week. All electronic filing of documents must be completed by 4:00 pm to be considered timely filed that day.

Documents transmitted after regular court hours shall be deemed filed on the next normal business day of the clerk. While electronic documents may be submitted through the e-filing system 24 hours per day, seven days per week, documents submitted on a Saturday, Sunday, or legal holiday will be deemed filed on the following business day regardless of the electronic stamp. This does not in any way alter the provisions of Civ. R. 6.

(E) A document electronically filed shall be accepted as the original filing if the filer complies with all the requirements set forth in this rule. The filer shall not be required to file the source document with the clerk but must maintain the same in the filer's records and have the same available for production on request of the Court, the clerk or other counsel. The filer shall maintain the source document until the subject case is closed and all appeals and opportunities for appeal have been exhausted.

(F) A transaction number will be assigned to each document when it is received in its entirety by the receiving device of the clerk. Filers will be notified via electronic mail if the filing is received.

(G) Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed with the clerk as a result.

(H) Fees. Normal filing fees, deposits, and copy costs will be collected via filer credit card or deposit at the time of the filing. Failure to submit the filing fee or deposit will result in the filing being rejected.

(I) Format. All electronically filed documents, pleadings and papers shall be filed with the Clerk in a PDF on 8 ½ x 11-inch pages. Not less than 11-point font and not greater than 12-point regular type font, paginated sequentially. Filings shall reserve a blank space of at least 2 inches at the top of the first page and bottom margins of not less than one inch. A filed document shall not contain links to other documents or references to the Case Management System, unless they are incorporated into the filed documents. External links are prohibited.

Proposed Entries and Orders if applicable must be submitted in Microsoft Word (.doc or .docx) format and reference the specific motion to which it applies.

Submissions shall be limited to twenty megabytes (20MB) in size per document.

(J) All documents e-filed shall omit personal identifiers as defined in Sup. R. 44(H). The responsibility for redacting personal identifiers rests solely upon the filer. The Clerk and the Court will not review each document for compliance with this rule. When the personal information is omitted from a case filing it shall be submitted or filed separately.

(K) Any e-filer whose filing is made untimely as the result of a technical failure of the Clerk of Court's system, or of the filer's computer hardware or software, phone lines or internet service provider, may move for leave to file instanter or for other appropriate relief from the Court. Such technical failures cannot extend jurisdictional deadlines. The motion shall be accompanied by an affidavit stating the circumstances of and reason for missing the deadline and must be filed no later than noon of the first day on which the Clerk of Court's office is open for business following the original filing deadline.

(L) A court order is required for any document to be filed under seal. Records ordered to be filed under seal must be presented to the Clerk for conventional filing.

(M) Exhibits and transcripts. Except for physical evidence, every reasonable effort shall be made to submit exhibits and transcripts through the e-filing system.

(N) An email address was created for the sole purpose of accepting insurance information. While insurance information will be accepted in person or via fax or mail as well, any other documents sent to the insurance email address will be rejected.

3. Instructions for Service

(A) Documents filed with the court shall be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49 unless an attorney or a party not represented by an attorney has filed an electronic mail address with the Court.

Rule 1.12 PRAECIPE FOR SUBPOENA

Any praecipe requesting service by bailiff shall be filed at least ten (10) days prior to any scheduled hearing or trial, unless otherwise ordered by the Court. All praecipes filed with the Court must be properly completed with complete addresses of the witnesses. Any praecipe summoning witnesses out of the Court's jurisdiction must also include the complete name and address of the servicing agency. If a hearing or trial is continued for any reason, a new praecipe must be submitted.

Rule 1.13 PROPER ATTIRE
Proper attire shall be worn in the courtroom. No hats shall be worn unless they are worn for religious purposes. No food or drink shall be allowed in the courtroom.

Rule 1.14 RECORDING OF ALL PROCEEDINGS
All proceedings shall be recorded by audio or digital taping. If counsel or a party desires a court reporter, then the counsel or party must make a written request for a court reporter.
If allowed by Court order, the requesting party must make their own arrangements for the presence and payment of a court reporter. No one shall make their own recording of the proceedings without prior approval of the court.

Parties appealing a judgment or objecting to a decision shall file a praecipe advising the clerk of the date(s) of the recording and specifically what portion(s) of the record they want transcribed. The clerk will provide a CD to the attorney or party of the proceeding.

If a party wants a typewritten transcript, the clerk will forward the CD to an independent transcriber who will contact the attorney or party with payment arrangements for a certified typewritten transcript.

All audio, video, digital, tapes, CDs and stenography recordings will be maintained on file for a period of three (3) years unless there is an appeal pending.

Rule 1.15 NO WIRELESS COMMUNICATION DEVICES
In order to protect the safety of those conducting business within Fairborn Municipal Courthouse, as well as to preserve the integrity of the judicial process, no wireless communication devices, including without limitations, any device intended to communicate, disperse, or retrieve information, including cell phones, computers, tablet computers, and cameras. At the discretion of the security officers or Court, exceptions to this rule may include: law enforcement personnel acting in the course of their duties; city or county employees displaying issued identification badges or otherwise providing satisfactory identification; attorneys displaying either Ohio Supreme Court admission cards or otherwise providing satisfactory identification; or members of the media acting in the course of their employment and with proper credentials/identification. The public, jurors, and witnesses are prohibited from using any communication devises while in attendance at trial. "Use" includes texting, audio and video recordings, and still photography. Communication devices shall be in silent mode or turned off when not in use.

Any person bringing one of the above item (s) into the building must declare the item(s) at the security checkpoint and have the item(s) inspected by court security personnel. Any specific instructions for processing such item(s) shall be given at that time.

All persons who are exempted are subject to all other rules and regulations of the Fairborn Municipal Court or any Judge's orders regarding confidentiality and/or any other courtroom restrictions on the use of said item(s).

Any person attempting to bring any of the above item(s) into the building contrary to law or policy may be refused entry. Any item(s), which has not been cleared, found in the possession of an entrant, may be confiscated, and disposed of in a manner provided by law.

Further, if the same occurs, other legal action may be taken against the entrant including, but not limited to, Contempt of Court proceedings.

Rule 1.16 RULES FOR BROADCASTING OR PHOTOGRAPHING PROCEEDINGS

Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Only one camera will be allowed in the courtroom for the recording of any proceeding. Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session. This rule shall not be construed to grant media representatives any greater rights than permitted by law. Victims and witnesses have a right to object to being filmed, videotaped, recorded, or photographed. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

No audio recording, video, or photograph of any juror witness, or juvenile defendant shall be taken.

Rule 1.17 RULES FOR ELECTRONIC SIGNATURES

These rules are established to ensure the authenticity of a signature. If it is established that a document was electronically signed without authority, then the party shall notify the court and the other party. Judge or Magistrate shall order the Clerk to strike the unauthorized document from the record.

1. **Signature of Judge or Magistrate**
   Documents may be signed by a Judge or Magistrate with an electronic signature. All orders, decisions, entries, permits, judgments and other documents signed in this manner shall have the same force and effect as if the Judge or Magistrate had affixed his or her signature in a conventional manner.

To ensure that the electronic signature is authentic, the signer has to use a user name and password to log into the court's secured network to assess the document to be signed. No Judge or Magistrate shall share these passwords with others.

2. **Clerk, Deputy Clerk, Bailiff, Deputy Bailiff, Assignment Commissioner, Secretary, Probation officer, and other court personnel**
   Documents may be signed by all court personnel with an electronic signature.

   To ensure that the electronic signature is authentic, the signer has to use a user name and password to log into the court's secured network to assess the document to be signed. No personnel shall share these passwords with others.

3. **Attorney, Plaintiff, Defendant, or litigant**
   Documents may be signed by an Attorney, law enforcement, Plaintiff, Defendant, or other litigant with an electronic signature.

Rule 1.18 COURT RECORD MANAGEMENT FOR PAPERLESS FILES

Effective on or about January 3, 2017, the Court has a process of creating and maintaining all new Civil and payable, waived violations bureau cases filed in electronic form. The electronic media created and maintained pursuant to this Rule will be the official court record, and case filings will no longer be maintained in paper form. Case filings will be retained in accordance with the retention schedule contained within Rule 26, 26.01 and 26.05 of the Ohio Rules of Superintendence. Each case filing will display digital acknowledgment of the date and time it was received by the Clerk of Courts. Any closed case which has been converted to digital format is the official court record. All electronic case filings may be viewed at the office of the Clerk of Courts during normal business hours under the general supervision of the Clerk or Deputy Clerk.

Rule 1.19 CUSTODY AND DISPOSAL OF EXHIBITS

The court bailiff is the official custodian of exhibits, depositions and transcripts. Pursuant to Ohio Rules of Superintendence Rule 26(F), at the conclusion of litigation, including time for appeal, the court bailiff may destroy the exhibits, depositions and transcripts.
The bailiff will send written notification to the party that tendered any exhibits, depositions and transcripts. The party will have 60 days to collect the exhibits depositions and transcripts. Failure to collect the exhibits will result in the exhibits, depositions or transcripts being destroyed.

Rule 1.20 COURT PUBLIC RECORD POLICY

All records kept by the Court are public unless they are exempt from disclosure under Ohio law or the Ohio Rules of Superintendence. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

Public records are to be available for inspection during regular business hours, except for published holidays. Public records must be made available for inspection promptly.

Copies of public records must be made available within a reasonable period. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested.

It is the goal that all request for public records should be satisfied within 7 business days following the receipt of the request. Each request will be evaluated for an estimated length of time required to gather the records. If a request is deemed significantly beyond "routine," an acknowledgement must be forwarded to the requester indicating the estimated number of business days it will take to satisfy the request and an estimate of the costs involved.

Although no specific language is required to make a request for public records, the requester must at least identify the records requested with sufficient clarity to allow the Court to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which the office keeps its public records.

The requester does not have to submit a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. In processing the request, the Court does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying.

In processing a request for inspection of a public record, a Court employee must accompany the requester during inspection to make certain original records are not taken or altered.

If the requester makes an ambiguous or overly broad request for public records, the request may be denied.

The denial; however, must provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the Court. Any denial of public records requested must include an explanation, including legal authority. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest released. When making public records available for public inspection or copying, the requester shall be notified of any redaction, or the redaction shall be made plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

Those seeking public records will be charged for the costs of making copies, not labor. The requester may choose whether to have the record duplicated upon paper, upon the same medium in which the public record is kept, or upon any other medium on which the Court determines that the record can reasonably be duplicated as an integral part of the Court's normal operations. The charge for paper copies of Court records is pursuant to local court costs as most recently adopted by the Court. A requester may be required to pay in advance for costs involved in providing the copy. If a requester ask that documents be mailed, they may be charged the actual cost of the postage and mailing supplies. Fairborn Municipal Court reserves the right to collect outstanding costs accumulated from previous request(s) before providing responses to new requests form the same requester.

All general questions concerning requests for Court public records may be directed to the Clerk of Courts.

RULES OF CRIMINAL AND TRAFFIC PRACTICE

Rule 2.01 CRIMINAL AND TRAFFIC PROCEDURE

The criminal and traffic procedure of this Court shall be that prescribed by the Rules of Criminal and Traffic Procedure and the amendments thereto.

Rule 2.02 MANDATORY APPEARANCES FOR ARRAIGNMENT

As used in these rules, any option to use live two-way video or audio technology shall not be construed to limit the power of a judge or magistrate to order that a party, attorney, or witness physically appear at a proceeding without the use of live two-way video or audio technology.

Further, the Court has judicial discretion to approve the arraignments listed below be held in person or by remote presence:

1. Any felony or indictable offense
2. Any criminal case, other than a minor misdemeanor
3. Operating a motor vehicle while under the influence of alcohol or any drug of abuse or permitting another to do so
4. Physical control of a vehicle
5. Permitting a minor to drive without a license
6. A third or more moving or speeding violation within twelve (12) months of date of the alleged offense and/or any offense where jail is a potential penalty.
7. Any speed 25 mph or more over limit in speed zones 55 or more
8. Any speed 20 mph or more over limit in speed zones less than 55 mph
9. Any speed 20 mph or more over limit in school zone
10. Failure to stop for a school bus
11. Failure to stop at railroad crossing
12. Driving while under suspension or revocation
13. Driving without a license if cited as an unclassified misdemeanor or misdemeanor of the first degree
14. Leaving the scene of an accident
15. Eluding or fleeing a police officer
16. Drag racing
17. Reckless Operation
17. A second or more Child Restraint violation
19. No Motorcycle Endorsement

However, if Defendant has an attorney of record who has entered a written not guilty plea on the defendant's behalf prior to the arraignment date, the defendant does not need to appear at the arraignment.

Failure to comply with this order will result in the issuance of a warrant for arrest under Ohio Revised Code section 2935.26 and/or a driver's license forfeiture under Ohio Revised Code Section 2935.27.

Rule 2.03 ARRAIGNMENTS

All Operating a Vehicle while Intoxicated (OVI) charges shall be scheduled for arraignment within five (5) days of the offense. All minor misdemeanors (mm) or unclassified misdemeanors (um) shall be scheduled for arraignment within ten (10) days of the offense unless otherwise ordered by the court.

In every traffic case where a citation is issued, except where defendant is incarcerated, the citation shall be filed within 48 hours after issuance. All citations are to include a LEADS print out of the cited person's driving record and a statement of facts. All arraignments are to comply with Ohio Traffic Rule 8 and Ohio Criminal Procedure Rule 10.

Counsel for the defendant may file under the appropriate case number an appearance of counsel and a written not guilty plea on behalf of his client prior to the scheduled arraignment in lieu of appearance of the defendant, unless the defendant has been charged with a felony, or any case in which a request for a protection order has been filed.

Rule 2.04 JUDGMENTS, ORDERS AND ENTRIES

All criminal and traffic judgments and orders of this Court shall be shown as entered on the Journals of the Court as of the date the judgments and orders were announced by the Court.

Rule 2.05 BAIL

Officers in charge shall release any person arrested and charged with any offense listed who provides bail or executes a bond according to law and satisfaction of the Court in the amount indicated on the bail and bond schedule. Defendant shall appear in the Fairborn Municipal Court at 9:00 a.m., or 11:00 a.m. if the offense is a violent offense or sexual offense the following morning that Court is in session after being released. The bail bond schedule is available at the Clerk's Office or on the Court's website.

Rule 2.06 BOND AGENT REGISTRATION WITH CLERK

In compliance with O.R.C. 3905.87, the Court requires a surety bail bond agent to register with the Clerk of Court by the first of April of each odd numbered year. The agent shall file a copy of the agent's surety bail bond license, current driver's license or State Identification card, and a certified copy of each surety bail bond agent's appointment of power of attorney from each insurer that the bail bond agent represents. Bond will not be accepted unless agents have registered. The registration will be maintained until the next required registration period.

Rule 2.07 COSTS AND FEES
All costs and fees in criminal cases shall be assessed accordingly by the Clerk.

Rule 2.08 FORMS OF PAYMENT
The Clerk will accept payments by cash, money order, credit card and personal check if the defendant's license is not forfeited or blocked. An administrative fee is charged for credit card payment pursuant to O.R.C. 2929.28 F(2).

Rule 2.09 REFUND & OVERPAYMENT POLICY
When the Clerk of Court receives payment for a ticket through the mail or payment on line, or disburses bond money held, the Clerk will not refund any amount less than $5.00.

Rule 2.10 RETURN CHECK FEE
If a check is returned from the bank for nonsufficient funds, then the costs from the bank shall be assessed to the defendant.

Rule 2.11 VEHICLE CLUBBING
The Court may allow a vehicle, which is subject to immobilization, to be stored under a less expensive method by court order. Arrangements must be made with the Court Bailiff. The Defendant must bring to the Bailiff an unopened steering wheel clubbing device with keys sealed inside the package. The Bailiff will place the club on the vehicle while it is at the towing company. Defendant must pay the tow and storage fees to the towing company and arrangements made to have the vehicle towed to a location authorized by the Court. When the Court terminates an immobilization, one can pick up the keys to the steering wheel club from the Bailiff. If club keys remain unclaimed for a period of six (6) months beyond the release, then the keys will be disposed of by the Bailiff.

Rule 2.12 CASES HEARD BY THE MAGISTRATE
The Clerk shall forward the case to the Judge for review and preparation of a final judgment entry.

CASE MANAGEMENT IN CRIMINAL & TRAFFIC CASES

Rule 3.01 PURPOSE OF RULES

The purpose of these rules is to establish, pursuant to Sup. R. 5(B), a system for criminal and traffic case management which will provide the fair and impartial administration of criminal and traffic cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

Rule 3.02 CLERICAL STEPS

1. The Clerk shall process all complaints filed for purposes of arraignment. All cases filed will be tracked by event in accordance with Supreme Court reporting requirements utilizing the worksheet provided by the Ohio Supreme Court.

2. Upon the filing of a not guilty plea the clerk shall immediately forward the case to the Assignment Commissioner for scheduling.

3. Upon the filing of a motion, the Clerk shall immediately forward the case to the Office of the Judge for review.

Rule 3.03 JUDICIAL STEPS

1. **Scheduling Conference:** Upon entering a not guilty plea and if time allows, the case shall be set for a scheduling conference to determine whether the defendant has obtained counsel or whether defendant is waiving his right to counsel. If counsel has entered an appearance prior to the scheduling conference hearing, then this conference shall be canceled. Conferences pursuant to this rule may be held by physical or remote presence, in the presence of the presiding judicial officer.

2. **Pretrial:** After arraignment or the scheduling conference, the Assignment Commissioner shall set the case for a pretrial conference when time allows, or as directed by the Court. The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a memorandum of the matters agreed upon shall be filed in the case. Any attorney who fails to appear for pretrial without just cause may be punished for contempt of court. If the defendant has decided to waive his/her right to counsel the Judge or Magistrate may set the matter for a pretrial if appropriate. Conferences pursuant to this rule may be held by physical or remote presence.

3. **Status Conference:** Each case not resolved at the pretrial conference shall be set for a status conference with the Judge to be conducted by telephone, unless otherwise ordered by the Judge. The Judge will initiate the telephone call between defense counsel and the prosecuting attorney. Counsel shall review all discovery, including videos, prior to the status hearing.

4. **Motions:** All motions shall be made in writing and accompanied by a written memorandum containing the arguments. Motions must be filed and served within the time limits established by the Ohio Rules of Criminal Procedure. Any copies of motions left with the Clerk to place in the prosecutor's box do not constitute service upon the prosecutor. The Court shall then direct whether the motion shall be set for hearing.

5. **Trial:** Each case not resolved at pretrial shall be set for trial to the Judge or Magistrate. If a jury demand is timely filed, then the case will be moved to the jury trial schedule. All attorneys or pro se defendants shall notify the court by 1:00 p.m. of the day preceding their jury trial of any change in plea or waiver of the jury trial. Failure to do so may result in jury costs being assessed. The last jury case canceled will be charged for the jury fees.

6. **Final Pretrial Conference:** If the case is set for a jury trial, then the Court will schedule a Final Pretrial Conference. Attorneys and the defendant are required to appear for this hearing. All discovery and a list of potential witnesses shall be provided to the opposing party prior to the final pretrial conference. Failure to provide such information may result in the exclusion of the evidence or witness at trial.

7. **Disposition:** If the Pretrial Conclusion sheet indicates that the Defendant will be pleading, or if directed by the Court, the Assignment Commissioner shall schedule the matter for Plea and Disposition. Dispositions will be held at the Court's discretion virtually via Zoom unless otherwise requested by Counsel or unless disposition is scheduled for a third offense OVI or crime of violence including but not limited to aggravated menacing, menacing by stalking, menacing, aggravated trespass, any sexually oriented offense, and any other offense where the victim, police officer, or prosecutor is seeking a protection order or no contact order as a condition of community control.

8. **Sentencing:** Sentencing hearings shall be set as soon as practicable after the trial or after acceptance of a plea if directed by the Court. Sentencing hearings will be held at the Court's discretion virtually via Zoom unless otherwise requested by Counsel or unless disposition is scheduled for a third offense OVI or crime of violence including but not limited to aggravated menacing, menacing by stalking, menacing, aggravated trespass, any sexually oriented offense, and any other offense where the victim, police officer, or prosecutor is seeking a protection order or no contact order as a condition of community control.

CASE MANAGEMENT IN SPECIAL TRAFFIC PROCEEDINGS

Rule 4.01 TRAFFIC INTERVENTION PROGRAM

In order to assist individuals to become valid and responsible drivers on the public roadways by providing support services, the Fairborn Municipal Court established the Traffic Intervention Program (TIP). The program was established as a collaborative effort which included the Court, prosecutors, defense counsel and law enforcement. A $50.00 fee will be assessed for any participant who enters the program to help defray the costs of additional staff time dedicated to the program. This fee is separate and apart from any fines and costs to be determined at sentencing. If the Defendant fails to appear at arraignment and a warrant is issued, participation in the program is solely at the Judge's discretion.

Procedure

(1) The Driving Under Suspension, "DUS", No Operator's License, "NO OL", Failure to Reinstate, and No Motorcycle Endorsement cases will be reviewed by staff to determine if a defendant's case meets the criteria for participation in the TIP.

(2) The TIP officer will review the forms for the defendant's signature and list all steps the participant must complete to restore or obtain their valid driver's license or Motorcycle Endorsement.

(3) Follow-up appointments will be scheduled with program participants to review the status of their steps towards reinstatement.

(4) The case shall be set for disposition to the Court within 120 days of the arraignment date for final resolution. If the offender either obtains a valid driver's license, motorcycle endorsement, or a valid driving permit and or valid driving privileges along with proper insurance, the charge will be amended to No Operator License as a minor misdemeanor. If the defendant does not obtain a valid driver's license, motorcycle endorsement, or valid driving permit along with insurance, then the charge will not be amended. In addition, if defendant receives new charges of Driving Under Suspension, Failure to Reinstate, or a No Operator License while in TIP, then the original charge will **not** be amended. A warrant will be issued if the violator fails to appear for disposition.

Criteria

The criteria for TIP may be reviewed periodically and may be modified. Each referral will be considered on a case-by-case basis and analyzed to determine if the TIP program is suitable for the individual.

Generally, cases meeting all of the following criteria will be recommended for referral into the Traffic Intervention Program:

A. Defendant does not contest the merits of the citation;
B. License is not suspended as a result of OVI, ALS, drug conviction, vehicular homicide, vehicular manslaughter, vehicular assault, hit/run violations, habitual alcoholic designation or court suspension;
C. Defendant has valid automobile insurance or is able to obtain insurance within 120 days;
D. No criminal felony or misdemeanor charges accompany or arise from the traffic stop;
E. The moving violation did not result in an accident or speeding violation over 30 mph or speeding in a school zone;
F. The defendant's license is under suspension and the suspension will be completed within 120 days of the arraignment date; or the defendant is suspended greater than 120 days of the arraignment and can obtain non-compliance limited driving privileges; or violator has no current suspensions except for reinstatement fees that are due and can be paid within 120 days of the arraignment date or qualifies for a payment plan for the reinstatement fees;
G. No indication that defendant was disrespectful to the officer;
H. No prior participation with the TIP program within the last three years unless the Judge and the prosecutor approve;
I. No new charges of Driving Under Suspension, Failure to Reinstate or No Operator's License while in program;
J. No more than 2 accompanying traffic charges other than charges of similar import--i.e. other driving under suspension or no operator's license type charges;
K. If there are 2 or more Driving Under Suspension, Failure to Reinstate, or No Operator's License charges the defendant will plead to the highest level offense.
L. Defendant may not have more than five DUS/No Operator's License convictions within the past three years.

RULES OF CIVIL PRACTICE

Rule 6.01 CIVIL PROCEDURE
The civil procedure of this Court shall be that prescribed by the Ohio Rules of Civil Procedure and amendments thereto and by Ohio Revised Code Chapters 1923 and 5321 as to Forcible Entry and Detainer Actions and by Chapter 1925 as to Small Claims Actions.

Rule 6.02 CIVIL COSTS AND FEES
Costs in civil cases shall be assessed and payable upon filing according to the fee schedule available at the Clerk's office and attached as Appendix A. Any filing requesting certified mail service weighing 5 oz. or more shall require the filing party to pay additional postage to be calculated by the Clerk per postage prices.

Rule 6.03 FUNDS ON DEPOSIT
Any funds that are deposited with the Clerk shall first be applied to the payment of costs before being released, unless otherwise directed by the Court.

Rule 6.04 SATISFACTION OF JUDGMENT
Satisfaction of any judgment will not be effective until endorsed by the Court. All payment of costs shall be required prior to an endorsement, unless otherwise directed by the Court.

Rule 6.05 SERVICE
The plaintiff shall tender with the original complaint a sufficient number of copies for all defendants to be served. The Clerk shall accept only legible copies of documents attached to the pleading or motion. Service of pleading shall be accomplished by following the applicable Rules of Civil Procedure or pertinent statutes.

All documents except the complaint offered for filing shall contain proof of service which shall state the date and manner of service, specifically identify the division of Ohio Civil Rule 5 (B)(2) by which the service was made and signed in accordance with Ohio Civil Rule 11. Documents filed with the Court shall not be considered until proof of service is endorsed thereon or separately filed.

No pleading shall be deemed served by leaving a copy with the Clerk or any court personnel.

Return of copies, receipts, etc. will be returned only if there is a self-addressed, stamped return envelope sent to the Court.

When a party requests service by Bailiff, the Bailiff shall attempt to make service. If the Bailiff cannot serve the party after attempting service, the documents shall be returned to the Clerk accordingly.
In Forcible Entry and Detainer cases, the Bailiff shall make one attempt at service.

Rule 6.06 SERVICE BY PUBLICATION
In addition to the requirements of Civil Rule 4.4 (A)(1), the party requesting service by publication shall also submit to the Clerk the following: a praecipe indicating which newspaper distributed in Greene County the legal notice should be forwarded to; a check made payable to the newspaper in the amount of the estimated costs for the full publication of at least once a week for six successive weeks; and a proposed legal notice containing the name and address of the court, the case number, the name of the first party on each side, the name and last known address of the person or persons whose residence is unknown, a summary statement of the object of the complaint and demand for relief, and shall notify the person to be served that he or she is required to answer within twenty-eight days after the publication.

After the last publication, the publisher or its agent shall file with the court an affidavit showing the fact of publication together with a copy of the notice of publication. The affidavit and copy of the notice shall constitute proof of service.

Rule 6.07 MOTIONS
Any motion shall be accompanied by a memorandum indicating the issues and authorities in support thereof. Absent such a memorandum, the motion may be summarily overruled.

Opposing memoranda shall be filed no later than fourteen (14) days from the service of the motion or on the business day prior to the trial or hearing on the motion, whichever is earlier, or at such other time as set by the Court. Motions shall be deemed submitted for consideration when the opposing memoranda are filed or the time for filing expires, whichever is earlier, or at such other time as set by the Court.

Assignment of any motion for oral hearing shall be at the discretion of the Court, unless otherwise required by law. Failure of counsel to appear for oral hearing may be deemed an abandonment of the motion.

All motions, other than a motion for summary judgment, shall be accompanied by a proposed entry written on a separate sheet of paper.

Rule 6.08 PRETRIAL CONFERENCE
In any civil action, a pretrial conference may be had upon motion of either party if it is filed at least two (2) weeks prior to the date of trial or upon the Court's own motion. Counsel and parties shall attend the pretrial conference.
Counsel must have complete authority to stipulate on items of evidence and must have full settlement authority.

Counsel who fails to attend a scheduled pretrial conference, without just cause, may be punished for contempt of this Court. Any Judge or Magistrate presiding at the pretrial conference shall have the authority to dismiss the action for want of prosecution upon failure of plaintiff, and/or his counsel to appear in person.

At least 21 days prior to the pretrial conference, unless otherwise ordered by the Judge or Magistrate, the parties must complete the Conference Report and Proposed Discovery Plan as required by Civ.R.26(F) and file a pretrial statement which shall include the following:

1. A brief statement of the facts of the case.
2. A statement of the issues of law involved.
3. Authorities relied upon to support the issues.
4. An outline of the exhibits.
5. The names, email addresses, and addresses of all expert witnesses.
6. The names, email addresses, and addresses of all lay witnesses.
7. An itemization of special damages.
8. An estimation of anticipated time required for trial.
9. A statement as to whether or not there will be a request for a view of the scene.
10. Copies of any special instructions requested by the attorney.
11. Any request for stipulations.
12. Any indications of settlement.

Rule 6.09 CIVIL JURY TRIAL DEMAND AND DEPOSIT
Requests for trial by jury shall be made in accordance with Civil Rule 38. In regard to restitution hearings in forcible entry and detainer actions, requests for trial by jury shall be filed at least two (2) business days prior to the scheduled hearing.

The party making a demand for jury shall at the time of the filing of the demand deposit with the Clerk the sum required by the fee schedule, or as set by the Court, unless a poverty affidavit approved by the Court is filed in lieu of the monetary deposit.

Proposed jury instructions shall be submitted to the Court thirty (30) days prior to the scheduled jury trial or as otherwise ordered by the Court.

The failure of a party demanding a jury to comply with any of the provisions of this Rule shall constitute a waiver of jury by that party and the matter may be submitted to and decided by the Court.

Rule 6.10 NOTICE OF TRIAL
When a civil case is assigned for trial, the Assignment Commissioner shall serve a notice of the time and date of trial to attorneys or parties of record and shall file a copy of such notice. The notice shall be served at least five (5) days before the date of trial in forcible entry and detainer cases and at least ten (10) days before the date of trial in all other cases, unless otherwise ordered by the Court.

Rule 6.11 SUBPOENAS
No subpoena for a witness in a civil proceeding shall be issued until the witness fee, costs, and estimated mileage are deposited with the Clerk. A witness who testifies or is available for that purpose shall receive a fee when served with a subpoena. The person issuing the subpoena will be responsible for paying the appropriate fees to the clerk at the time of the request pursuant to the Schedule of Costs. Any party filing a subpoena who requests service by the Bailiff must file the subpoena at least ten (10) business days prior to the scheduled trial or hearing, unless otherwise ordered by the Court.

Rule 6.12 DISMISSALS FOR WANT OF PROSECUTION
All cases not reduced to judgment, which have remained on the docket for six (6) months or three (3) months in Small Claims Cases without the filing of any motion, affidavit, pleading or entry shall be dismissed by the Court, at plaintiff's cost, without prejudice to a new action. This shall be done after a notice pursuant to the Rules of Civil Procedure and the Rules of Superintendence has been issued. An entry shall be filed in each case in which such action is taken.

Rule 6.13 BRIEFS
A case shall be submitted to the Judge or Magistrate for decision at the conclusion of the trial unless the parties are ordered to submit post-trial briefs.

Rule 6.14 CASES HEARD BY THE MAGISTRATE
All Civil matters are hereby referred to the Magistrate. If no objections are filed within the time provided by law as to any Magistrate decision or order, the Clerk shall forward the case to the Judge for review and preparation of a final judgment entry.

Rule 6.15 APPRAISALS AND DEPOSIT
In any case where an appraisal of chattel property is required by statute, the appraiser's fees shall be deposited by the plaintiff with the Clerk of Court.

On motion of the opposing party or at the request of the Clerk or of an officer of the Court, the Court may require the deposit to be increased so as to secure all costs that may accrue in the cause. If such security is not given after reasonable notice, the Court shall dismiss the action.

Rule 6.16 APPEAL BOND AND DEPOSIT

An appellant shall deposit as security, in addition to the appeal bond, a sum of money sufficient to include all costs before the transcript of the docket and journal entries will be prepared. All costs and deposits shall be delivered to and disbursed by the Clerk.

CASE MANAGEMENT IN CIVIL CASES

Rule 7.01 PURPOSE OF RULES

The purpose of these rules is to establish pursuant to Sup. R. 5(B) a system for civil case management which will achieve the prompt and fair disposal of civil cases.

Rule 7.02 SCHEDULING OF EVENTS

The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in three (3) clerical steps and five (5) judicial steps.

Rule 7.03 CLERICAL STEPS

1. **Summons:** Summons shall be served in accordance with the Ohio Civil Rules of Procedure. In the event there is a failure of service, the Clerk shall immediately notify counsel or the party, if pro se. If the party fails to obtain service of summons within six (6) months from the date the complaint was filed or three (3) months if a Small Claims Complaint, then the Court shall notify counsel that the case will be dismissed for lack of progress in thirty (30) days unless good cause is shown to the contrary.

2. **Responsive pleading:** After any responsive pleading or motion is filed, the Clerk shall immediately forward the pleading and file to the Judge or the Magistrate so that the matter may be set accordingly.

3. **Settlement:** When a file has been marked as settled and the entry has not been received within fourteen (14) days of said notice, then the Court shall notify the party that the case will be dismissed unless the entry is received within an additional fourteen (14) days from the date of the notice. Failure to respond and file the appropriate paperwork will result in the case being dismissed without prejudice at plaintiff's costs.

Rule 7.04 JUDICIAL STEPS

1. **Pretrial Hearing:** After an Answer is filed, the case will be assigned to the Judge or Magistrate and the Clerk will forward the file to the Assignment Commissioner who will schedule a pretrial hearing. Notice of the pretrial conference shall be given to all counsel of record by mail and/or e-mail notice from the Assignment Commissioner.

2. **Motions:** All motions must be in writing and accompanied by a written memorandum containing the arguments and related citations. The opposing party or counsel shall answer in like manner within fourteen (14) days thereafter from the date the motion is filed. All motions will be considered submitted at the end of said fourteen (14) day period unless time is extended by the Court.

There will be no oral hearings granted on the motions unless the parties request an oral hearing in writing and the Court deems it necessary or if required by Rules of Civil Procedure.

3. **Trial:** Each case not resolved at pretrial conference shall be set for trial before the Judge or Magistrate. If a jury demand and deposit is timely filed, then the case will be moved to the jury trial schedule. All attorneys or pro se parties shall notify the Court by 1:00 p.m. of the business day preceding the jury trial of any settlement. Failure to do so may result in jury costs being assessed.

4. **Final Pretrial Conference:** If the case is set for a jury trial, then the Court will schedule a final pretrial conference. Attorneys and the defendant are required to appear for this hearing. All discovery and a list of potential witnesses shall be provided to the opposing party prior to the final pretrial conference. Failure to provide such information may result in the exclusion of the evidence or witness at trial.

5. **Judgment Entry:** The Court shall prepare all entries for contested matters unless it orders otherwise. Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but an entry shall be filed within twenty-eight (28) days of notifying the Court of the settlement. The journal entry shall state which party will pay the court costs. Failure to provide the entry within said twenty-eight (28) day time period will result in the case being dismissed without prejudice at plaintiff's costs, unless otherwise ordered by the Court.

CASE MANAGEMENT IN SPECIAL CIVIL PROCEEDINGS

Rule 8.01 PURPOSE

The purpose of this rule is to establish, pursuant to Sup. R. 5(B), a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings and may be heard by a Judge or Magistrate: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, BMV hearings, garnishment hearings, debtor's exams and dog designation hearings.

Rule 8.02 SCHEDULING OF EVENTS

Cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

Rule 8.03 CLERICAL STEPS

1. **Summons:** Summons shall be served in accordance with the Ohio Civil Rules of Procedure. In the event there is a failure of service, the Clerk shall notify counsel or the party, if pro se. If the party fails to obtain service of summons within six (6) months from the date the complaint has been filed or within three (3) months for Small Claims cases, then the Court shall notify counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary. For small claims cases and forcible entry and detainer cases, the clerk shall set the matter for trial upon the filing of the Complaint and provide notice of the trial or hearing with the Complaint and Summons.

2. **Pleadings:** After any responsive pleading or motion is filed, the Clerk shall immediately forward the pleading and file to the Judge or the Magistrate so that the matter may be set accordingly.

3. **Settlement:** When a file has been marked as settled and the entry has not been received within fourteen (14) days, then the clerk shall immediately notify the Judge or Magistrate. The Court shall then notify the party that his case will be dismissed unless the entry is received within an additional fourteen (14) days. Failure to respond and file the appropriate paperwork will result in the case being dismissed without prejudice at plaintiff's costs, unless otherwise ordered by the Court.

Rule 8.04 FORCIBLE ENTRY & DETAINER HEARINGS

1. **Hearings:** All forcible entry and detainer cases shall be set for hearing before the Judge or Magistrate pursuant to the time limits set forth in the Ohio Revised Code. If defendant should fail to appear at the hearing, the Judge or Magistrate shall proceed to hear the case so long as plaintiff or plaintiff's agent appears to testify as to personal knowledge of the facts concerning the forcible entry and detainer. If a pro se plaintiff or plaintiff's attorney fails to appear for the hearing, the case may be dismissed or the request for restitution denied.

2. **Objections:** Any objection to the magistrate's decision or order shall be made pursuant to Ohio Civil Rule 53. The opposing party shall have ten (10) days from the date the objection is filed to respond to the objection, unless otherwise ordered by the Court. No oral hearings will be granted unless ordered by the Court.

3. Writs: Whenever a writ is filed in a forcible entry and detainer action, the attorney or the party who submitted the writ shall provide the Clerk with the filing fee pursuant to the fee schedule.

Rent 8.05 RENT ESCROW

If the landlord does not request a hearing within two (2) months from the date of the filing of an escrow petition, the Clerk shall set the matter for a hearing at the expiration of the two (2) months.

Rule 8.06 SMALL CLAIMS COURT

A small claims action is commenced by filing a small claims petition, pursuant to Ohio Revised Code section 1925.04. A Defendant is not required to file an answer or statement of defense. However, should the defendant fail to appear for the hearing, after being duly served, then a judgment may be entered against the defendant. All pleadings will be construed to accomplish substantial justice. Counterclaims or cross claims must be filed and served at least seven (7) days prior to the hearing.

Upon filing of motion and affidavit, as required by Ohio Revised section 1925.10, and upon payment of the required costs, the small claims case may be transferred to the regular docket. No transfer will be granted until the filing costs are paid.

1. **Hearing:** The hearing in small claims court shall be conducted by the Judge or Magistrate. 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 apply to a hearing in small claims court as deemed appropriate by statute.

2. Objections: Any objection to the Magistrate's decision or order shall be made pursuant to Civil Rule 53. The opposing party shall have ten (10) days from the date the objection is filed to respond unless otherwise ordered by the Court.

No oral hearing will be granted unless ordered by the Court.

3. Collection of Judgments: The Clerk shall assist the prevailing party in collecting his judgment as provided for in Ohio Revised Code section 1925.13.

Rule 8.07 AID OF EXECUTION

When filing any execution, the party shall provide one copy for each party to be served and one copy for the Clerk. Orders in aid of execution shall be served and scheduled in the same manner as appearance cases.

In the event the Plaintiff or his attorney fails to appear for the examination of a debtor, the presence of the party shall be noted on the docket and the party excused.

Rule 8.08 SALES AND CONFIRMATION

A copy of the notice of the sale of personal property shall be served by the Bailiff to the parties and to attorneys of record in the case. However, failure to serve such notice shall not invalidate the sale. It is the responsibility of the party demanding the sale to cause advertisement of such in a newspaper of general circulation and pay the costs for same. Proof of publication shall be filed with the Clerk. Entries of confirmation and distribution shall be prepared by the party who requested the sale and shall contain a statement that the sale was regular and proper in every respect unless otherwise directed by the Court and a statement of the balance, if any, still due on the judgment.

Rule 8.08 TRUSTEESHIPS

1. **Application**: The application for an appointment of a trustee shall include a complete and accurate statement, under oath, of: the debtor's name and address; name and address of all employers; and a list indicating the names, addresses, account numbers, and amount owing to all creditors. Attached to the application should be a copy of the demand of garnishment of personal earnings and proof of last thirty (30) days of gross earnings.

The attorney for the debtor or the debtor shall provide the Clerk with an additional copy of the application for each creditor listed in the application. The Clerk shall set the matter for a hearing. The Clerk shall send, by certified mail, a copy of the application and a hearing notice to each listed creditor.

Each notice shall contain the time and place of a hearing that objections to the application shall be heard. Additional creditors may be listed in the trusteeship only upon application and service of a notice to each additional creditor.

2. **Distribution**: The trustee shall distribute funds only to a creditor or the creditor's attorney who has verified the debt and amount owed. The Clerk shall supervise cash payments of the debtor and distribute funds on a quarterly basis. The Clerk may refuse to accept payment from the debtor if it not the amount required by law.

3. **Dismissal**: If payments are not made when due, the trusteeship shall be dismissed and the money distributed. A dismissal shall make the debtor ineligible for filing a new application for a period of six (6) months.

Rule 8.09 REQUESTS FOR DRIVING PRIVILEGES/APPEALS OF 12 POINT SUSPENSIONS

All requests for driving privileges and appeals of 12 point suspensions shall contain the following information: Petitioner's date of birth, last 4 digits of the petitioner's Social Security number, and Driver's License number. If additional information is needed, the matter shall be set for a pretrial. Petitioner's failure to appear could result in denial of the request or appeal.

JURY MANAGEMENT

Rule 9.01 JURY COMMISSION

The Clerk of Court shall designate a deputy clerk as the jury commissioner. Jurors shall be chosen by the jury commissioner as generally provided for in Ohio Revised Code Section 1901.25.

Jurors are to be selected at random from a computerized list of legal voters provided by the Greene County Board of Elections. Unless otherwise ordered by the Court, all service upon persons summoned for jury duty shall be by ordinary first class mail.

If at trial the panel of prospective jurors is exhausted, the Judge may order same filled by directing a Bailiff to summon bystanders or other electors of the jurisdiction of the Court.

Jurors who have served on a jury for this Court will not be summoned or required to serve as a juror again within two (2) years of the date of their jury service.

Rule 9.02 ELIGIBILITY FOR JURY SERVICE

All persons in the Fairborn Municipal Court's jurisdiction shall be eligible for jury service except an individual who is:
(1) Less than 18 years of age;
(2) Not a resident of the jurisdiction;
(3) A convicted felon who has not had his civil rights restored;
(4) Serious illness or death within family;
(5) Cloistered member of a religious organization or Amish;
(6) Service would cause undue or extreme physical or financial hardship;
(7) Over age 75 and requests to be excused.

Rule 9.03 REMOVAL FROM THE JURY PANEL FOR CAUSE

To reduce the time required for voir dire, basic background information regarding panel members will be made available to counsel, upon request, the week of the scheduled jury trial. The Court will conduct a preliminary voir dire examination. Counsel shall then be permitted to query panel members for a reasonable period of time.

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

Rule 9.04 PEREMPTORY CHALLENGES
Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury. In criminal and 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. Each side will be allowed one peremptory challenge if an alternate juror is seated.

Rule 9.05 JUROR COMPENSATION
Persons called for jury service will receive a fee for their service and expenses. The fee will be paid promptly by the Clerk of Court of the Fairborn Municipal Court.

Rule 9.06 JURY SIZE, UNANIMITY OF VERDICT AND DELIBERATIONS
Jury size and unanimity in Civil and Criminal cases shall conform to existing Ohio law. A jury should not be required to deliberate after a reasonable hour unless the Court determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

COURT SECURITY

Rule 10.01 COURT SECURITY

For the purposes of ensuring security in the court and to meet the amendment to the Rules of Superintendence for Courts of Ohio Rule 9, the Court hereby establishes the following procedures, by local rule, to satisfy the Court Policy and Procedure Plan.

1. A written security plan and procedure manual governing security of the court and its facilities shall be established to ensure consistent, appropriate and adequate security procedures.

The manual shall include:

(A) A physical security plan;
(B) A route and special security operations;
(C) A hostage situation response plan;
(D) A high risk trial plan;
(E) An emergency procedure for the following;
  (1) Fire
  (2) Bomb
  (3) Disaster
  (4) Medical

All persons entering the court facility shall be subject to security screening by a portable walk- through or hand-held magnetometer. All packages, brief cases, purses, or other carried items will be subject to screening. No weapons shall be allowed in the court facility except those carried by bailiffs and by law enforcement officers acting within the scope of their employment.

Armed bailiffs shall be assigned to court security. All bailiffs authorized to carry weapons shall be certified through the Ohio Peace Officers Training Council annually.

Prisoners shall be transported into the court through areas not accessible by the public. Prisoners shall be held in a secure area and cuffed while awaiting court proceedings.

After hours security procedures shall be adopted for court personnel and for others whose offices are within the court building for periods of time other than normal working hours.

All incidents of violence or violation of the law shall be reported to the law enforcement agency having jurisdiction.

The room where key information technology equipment is stored, such as servers, core routers and switches, and data storage will have access control restrictions. Only the people who need to be in the server room shall have access to it. There shall be humidity and temperature control in the room, as well as protection systems for smoke, fire, and water.

DRUG COURT

Rule 11.01 ESTABLISHMENT

This Court established a drug court docket on January 2, 2015, known as the Drug Court, which is governed under Superintendence Rule 36.20 for Specialized Dockets. The goal of this program is to provide for court managed drug intervention treatment and monitoring to assist participants with drug dependency diagnosis in developing sober life styles through evidence based intervention and treatment in a non-adversarial approach, and reduce recidivism.

Rule 11.02 PLACEMENT

All participants enter the program post adjudication. In order for an individual to be admitted into the program, a defendant must meet the following legal and clinical criteria: be charged with a misdemeanor of the third, second or first degree; have a drug dependency diagnosis; no current participation in another similar program; and voluntarily enter this program. Violent offenders will be considered on a case by case basis.

Rule 11.03 ASSESSMENTS

The defendant will be referred by the Judge for an initial assessment as agreed upon by defense counsel and the prosecuting attorney. Individuals must complete a risk assessment, drug and alcohol assessment, a mental health assessment, and any other appropriate medical assessments prior to entry into the program.

Rule 11.04 ASSIGNMENT

All cases will be assigned to the Judge's docket. The Judge has the discretion on who can participate in the program. Meeting the legal and clinical criteria does not create a right to participation. Individuals accepted for the program, must agree to comply with the program requirements and not pose an unacceptable risk to the community, family or staff.

Rule 11.05 CASE MANAGEMENT

Defendants approved for the program must participate in drug and alcohol counseling and mental health counseling as indicated upon their treatment plans, which may be individual, group or family sessions. The participants must follow all court orders and requirement in their case plan. This may include obtaining housing, reliable transportation, completing high school or obtaining a GED, participating in vocational opportunities, or obtaining employment.

Rule 11.06 TERMINATION

When a participant completes the program, he or she must report to the probation officer for a minimum of three months of aftercare. After this period, if the defendant has met all obligations, then he or she is eligible for successful early termination of community control. If the defendant has not met all the obligations, a community control violation may be filed, and the remaining jail sentence may be imposed.

FAIRBORN MUNICIPAL COURT

1148 Kauffman Ave, Fairborn, OH 45324

937-754-3040 Option 3

fairbornmunicipalcourt.us

Effective July 1, 2021

Criminal & Traffic Court Fees

Administrative License Suspension (ALS Appeal)	$20.00	
Appeal	$125.00	
Bond Surcharge	$25.00	
Bond Surcharge/Felony	$85.00	
Bond Surcharge/Surety	$54.00	
Bureau of Workers Compensation - Community Service	$0.20	Hourly
Case Dismissed-Criminal with Cost	$86.00	
Case Dismissed-Traffic with Cost	$76.00	
Community Restitution Program	$60.00	
Copy	$0.25	
Copy-Certified	$2.00	
Copy Transcript on CD	$2.00	
Court Cost	$125.00	
Credit Card Fee (Debit $2.00) (Credit Card up to 3% of Total)	$2.00	3% cc
Declaration of Forfeiture	$5.00	
Declaration of Forfeiture-License Cancellation	$15.00	
Driving Permit (Each Motion Filed)	$10.00	
Electronic Monitoring House Arrest Effective 4/15/2004	$25.00	
Expungement	$50.00	
Forfeiture of License Revised 3/1/2018	$15.00	
Interlock / SCRAM fee Effective 1-2009	$5.00	
Jail Fee	$8.00	
Jail Transport Fee	$5.00	
Lab Fees	$125.00	
Money Management Class Effective 8/21/2007	$25.00	
Monthly Payment Revised 3/1/2018		
Total Amount Owed Less Than $200.00	No Fee	
Total Amount Owed $201.00 to $500.00	$10.00	
Total Amount Owed Over $500.00	$20.00	
Non-Resident Violater	$5.00	
Non-Resident Violater Cancellation	$15.00	
Objection to Magistrate's Decision	$30.00	
Public Defender Fee Effective 10/2005	$25.00	
Restitution Effective 4/15/2004	$25.00	
Restitution Processing Fee of Total Owed	Percentage	3.50%
Supervised Probation Effective 01/01/2014	$225.00	
Traffic Intervention Program (TIP)	$50.00	
Unsupervised Probation Effective 01/01/2014	$100.00	
Warrant Revised 03/01/2018	$25.00	
Warrant Block Revised 03/01/2018	$5.00	
Web Payment Convenience Fee (Debit $2.00) (Credit Card up to 3% of Total)	$2.00	3% cc

Payable by Cash, Check, Credit Card or Money Order

FAIRBORN MUNICIPAL COURT
1148 Kauffman Ave, Fairborn, OH 45324
937-754-3044
fairbornmunicipalcourt.us
Effective July 1, 2021

CIVIL & SMALL CLAIMS FILING FEES		
BMV Petition or Damage or Money Complaint ($15,000 MAX)**	$140.00	
Each additional Defendant	$20.00	
Forcible Eviction Complaint	$140.00	
Includes Bailiff & Regular Mail Service up to Three (3) Defendants		
Each Additional Defendant after Three (3)	$20.00	each
Certified Mail Service per Defendant	$20.00	each
Replevin Complaint**	$140.00	
Small Claims Complaint ($6,000 maximum)**	$70.00	
Transfer from Small Claims to Civil Docket	$70.00	
Transferring in a Case/Judgment from Another Court	$140.00	
Covers one(1) Defendant on Case/Judgment		
Each additional Defendant after One (1)	$20.00	each
Dog Status Designation Appeal	$140.00	each
SMALL CLAIMS AND CIVIL ADDITIONAL CHARGES		
Alias Praecipe Summons **	$20.00	
Amended Complaint**	$40.00	
Personal or Residential Service by Bailiff	$40.00	
Within Fairborn Municipal Court Jurisdiction		
Certified Mail Service	$20.00	each
Regular Mail Service	$10.00	each
Certificate of Judgment	$20.00	
Certified Copy	$2.00	each
Contempts (additional fee for service)	$30.00	
See above for Bailiff Service if Defendant within Fairborn Municipal Court Jurisdiction		
Copies	$0.25	
Copy of Transcript on CD	$2.00	
Counterclaim, Cross or Third-Party Complaint**	$40.00	
Debtor's Exam (additional fee for service)	$30.00	
Exemplified Copy	$10.00	
Praecipe for Writ of Restitution	$60.00	
Garnishment-Wages**	$140.00	
Garnishment -other than Wages**	$60.00	
Plus Separate Check for Bank	$1.00	
Jury Deposit-Civil cases Only	$1,000.00	
Objection to Magistrate's Decision	$30.00	
Revivor**	$40.00	
Sheriff Fee Deposit	$60.00	
Subpoena	$20.00	
Plus Separate Check for Witness	$10.00	
Execution	$60.00	
Plus Deposit	$400.00	
Marriage	$50.00	
Trusteeships	$140.00	
Plus Fee for *EACH* Creditor Listed	$6.00	each
Payable by Cash, Check, Credit Card, or Money Order		

**INCLUDES SERVICE BY CERTIFIED MAIL