

ASHTABULA MUNICIPAL COURT  
ASHTABULA COUNTY, OHIO

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ASHTABULA MUNICIPAL COURT


STATE OF OHIO )  
ASHTABULA COUNTY )

JOURNAL ENTRY

**IN RE: LOCAL RULES OF COURT - AMENDED**

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, Local Rules of Court are hereby amended and adopted, effective January 1, 2019.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
Laura DiGiacomo, Judge  
Ashtabula Municipal Court

27-452

# ASHTABULA MUNICIPAL COURT

## LOCAL RULES OF COURT

Effective January 1, 2019

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# ASHTABULA MUNICIPAL COURT

## LOCAL RULES OF COURT

The Ashtabula Municipal Court hereby adopts the following Rules of Court for the handling of cases and management of the Court. These Rules are adopted pursuant to the authority of the Rules of Superintendence for Municipal and County Courts, Rule 5 and are intended to include a case management program pursuant to Rule 5(B)(1), a jury management plan pursuant to Rule 5(B)(2) and Local Fax Filing Rules. These Rules are intended to supplement and complement the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, the Ohio Traffic Rules, the Rules of Superintendence for Municipal and County Courts, and other controlling rules and statutes in the application and administration in proceedings in the Court. These Rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings, functions and services of this Court. In their application and administration they shall be construed and employed so as to provide fairness and simplicity in procedure, to avoid technical and unjustifiable delay, and to secure just, expeditious and inexpensive determination of all actions and proceedings. These Rules shall apply to all parties, counsel of record and subject matter of all actions, civil, criminal or traffic filed on and after the effective date hereof.

### **Rule No. 1 – Hours of the Court**

The offices of the Court shall be open between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday. These hours may be extended or diminished by Order of the Court from time to time.

### **Rule No. 2 – Motions for Continuance**

Motions for Continuance shall be submitted to the Court in writing at least seven (7) days in advance of the scheduled hearing, and must contain a brief in support setting forth the reasons requiring the continuance, along with a proposed Order for the Court's review and approval. No continuance will be granted by phone. When a continuance is sought for the reason that counsel is scheduled to appear in another case assigned for trial or hearing on the same date in another court in the State, the movant shall attach to his or her motion, a copy of the Notice received from the other court, along with a copy of the Notice received from this Court. Motions for Continuance sought due to a conflict in hearing or trial schedules shall be decided in accordance with Rule 41(B) of the Rules of Superintendence for Municipal and County Courts. Motions for Continuance submitted after the aforementioned seven (7) day period may be granted upon the showing of good cause constituting extreme hardship, unforeseen circumstances or other unavoidable conditions. A proposed Judgment Entry must accompany all Motions for Continuance.

## LOCAL RULES OF COURT IN CIVIL CASES

### **Rule No. 3 – Filing Fees**

The schedule of filing fees in civil cases is attached hereto and marked Exhibit A and may be amended from time-to-time by order of Court

### **Rule No. 4 – Default - Dismissal by Court**

In all civil cases where the defendant(s) have failed to answer or further plead ninety (90) days after the filing of the complaint, the Court shall cause to be served upon the plaintiff a Notice pursuant to Civil Rule 41 that the Court will dismiss the case for want of prosecution unless good cause is shown. If the plaintiff fails to move the Court for an Order granting judgment by default pursuant to Rule 55(A) or otherwise show good cause why it should not be dismissed, then, in that case, the Court shall dismiss the action without prejudice, for want of prosecution after six (6) months.

### **Rule No. 5 – Motion Practice**

#### **A. General Motion Practice**

A party filing any motion shall file therewith a brief in support containing a short concise statement of the points relied upon and the authorities supporting such contentions.

**\*All motions shall be accompanied by a proposed Entry for the Court's review and consideration.**

#### **B. Motion for Summary Judgment**

Unless otherwise ordered by the Court, Motions for Summary Judgment shall be heard on briefs and supporting documentation authorized by Civil Rule 56(C) without oral hearing no less than fifteen (15) days after the service and filing of the Motion. Adverse parties shall serve and file opposing briefs and documentation within fourteen (14) days of the filing of the Motion.

### **C. Motions for Default Judgment**

Unless otherwise ordered by the Court, Motions for Default Judgment which are accompanied by an Affidavit on personal knowledge, showing affirmatively that the Affiant is competent to testify to the matters stated therein and setting forth such facts as would be admissible in evidence in support of the allegations contained in plaintiff's Complaint, shall be considered by the Court without oral hearing.

**The Court will not accept affidavits of the plaintiff's attorney in support of a Motion for Default Judgment unless the attorney is also the plaintiff.**

### **Rule No. 6 – Magistrates**

Unless otherwise ordered by the Court, automatic reference shall be made pursuant to Civil Rule 53, Criminal Procedure Rule 19, Traffic Rule 14, and the Rules of Superintendence for Municipal and County Courts to a duly appointed Magistrate of the Court of the following types of cases and the reference of each such case shall be deemed to be journalized:

- 1) Civil matters in which the parties are not entitled to, or have waived their right to a trial by jury.
- 2) Small Claims.
- 3) Judgment Debtor and Garnishment Proceedings.
- 4) All criminal and traffic matters as set forth in Criminal Rule 19(C)(1) and Traffic Rule 14.
- 5) Any other matter in which the parties agree in written agreement, to hearing or trial by a Magistrate.

### **Rule No. 7 – Small Claims Filings**

Corporations may use Small Claims Court with an individual representative so long as the representative does not act as an advocate and may not engage in cross-examination, arguments, or other acts of advocacy. A corporate representative shall be limited to any bona fide officer salaried employees.

## **Rule No. 8 – Case Management Program**

All civil cases, except forcible **entry** and detainer, replevin and small claims, shall be set for a combine pre-trial and case management conference after the case is at issue. Counsel and parties must appear before the Court at the conference. Insurance adjusters may substitute for their insured, if they have authority to settle the case on behalf of their insured. Counsel will be encouraged at the conference by the Judge or Magistrate to review the possibility of settlement of the action, to simplify and narrow the issues for trial, to reach stipulations of fact not in controversy, to shorten the time and expense of the trial and to consider such other matters as may aid in the disposition of the action, including any appropriate and available alternative dispute resolution programs. Counsel should be prepared at the conference to enter into a joint pre-trial statement and binding case management schedule setting forth the possibility or probability of settlement, facts which can be stipulated and those remaining in contention, special legal issues, if any, and a time-table for the amendment of pleadings, the filing of motions, the exchange of expert witness reports and medical and hospital records, the termination of discovery and the trial of the action. At the time of the conference, the Judge or Magistrate may consider other appropriate pre-trial matters in accordance with Civil Rule 16, including the imposition of sanctions as authorized by Civil Rule 16, including the imposition of sanctions as authorized by Civil Rule 37 and other such matters as may aid in the disposition of the case.

### **Failure to appear at pre-trial may result in a Dismissal or Default Judgment.**

**Rule No. 8A: Jury Trial** – A status conference will be scheduled 10 to 14 days prior to all jury trials. All settlement agreements must be executed prior to the jury trial day. No settlement agreements will be accepted by the Court on the day of the jury trial, unless the jury demand has been withdrawn.

## **Rule No. 9 – Forcible Entry and Detainer Actions**

In cases involving combined claims for forcible entry and detainer and claims for money damages, the Court may hear both causes at the time of the forcible entry and detainer hearing pursuant to Ohio Revised Code Section 1923.081.

In cases in which the Court has issued a writ of restitution in actions in forcible entry and detainer, it shall be the responsibility of the plaintiff or his/her/its agents to provide for the actual moving out of the defendant from the residence premises, including the post move-out storage of any personal property of the defendant. The Court's Bailiff shall be available to schedule the move-out and shall be in attendance at the time of the execution of the writ of restitution. The Bailiff shall not make advanced arrangements for movers or actually conduct the move-out. Nothing in this Rule shall prevent a party from recovering the costs of restitution of premises as damages or court costs in an appropriate case pursuant to law.

## **Rule No. 10 – Judgment Entries**

### ***Final Appealable Orders***

The purpose of this Rule is to comply with the dictates of the Supreme Court of the State of Ohio contained in *Atkinson v. Grumann Ohio Corp.* (1988), 37 Ohio St. 3d 80. The obligation to distinguish between interlocutory orders and final, appealable orders, however, is with the parties and their counsel and not with the Clerk or Deputy Clerks of this Court.

## **Rule No. 11 – Service by Publication**

In cases where there is a request for service by publication pursuant to Civil Rule 4.4, the Clerk shall cause service of Notice to be made by publication in a newspaper of general circulation in the County pursuant to Rule 4.4. The Clerk shall notify the publisher that the payment of the costs of the publication shall be the responsibility of the plaintiff. Payment arrangements shall be made directly by the plaintiff with the publisher without the Court assessing the publication costs as costs of suit or without the requirement of an advanced deposit by the plaintiff to the Court for payment of the publication costs. Nothing in this Rule shall prevent a party from recovering the costs of publication as damages or court costs in an appropriate case pursuant to law.

<h2 style="text-align: center;"><b>LOCAL RULES IN CRIMINAL CASES</b></h2>
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## **Rule No. 12 – Case Management Program – Pre-trials**

All criminal cases wherein the defendant pleads “not guilty” at the initial appearance or the case is not otherwise disposed of, shall be immediately set for a trial unless time limits are waived. The notice of the trial or pre-trial conference date shall be personally delivered to the defendant and/or his attorney prior to leaving court. The defendant and his attorney shall be required to personally appear at the pre-trial conference unless expressly excused by Court Order. All cases which are not disposed of at the conclusion of the pre-trial conference shall be set for trial unless otherwise ordered by the Court. Prior to leaving the Court at the conclusion of the pre-trial conference, a notice of the trial date shall be personally delivered to the defendant and/or his attorney.



### **Rule No. 13 – Case Management Program – Trial**

All trials shall be scheduled before the Court unless the defendant files a timely jury demand or otherwise is accorded a right to trial by jury pursuant to law.

**Rule No. 13A: Jury Trial** – A status conference will be scheduled 10 to 14 days prior to all jury trials. All plea agreements must be executed prior to the jury trial day. No plea agreements will be accepted by the Court on the day of the jury trial, unless jury demand has been withdrawn.

### **Rule No. 14 – Motions**

All motions shall be made in accordance with Criminal Rule 12. Any motion which, by its nature, is capable of determination without hearing shall be ruled on without hearing.

### **Rule No. 15 – Cases Heard on Scheduled Date**

All criminal cases shall be heard only at the regularly scheduled date and time. Defendants may appear for hearing or disposition of their case at a time other than the regularly scheduled date and time only upon written motion filed in advance with the Court.

### **Rule No. 16 – Dismissals**

When the prosecutor desires to dismiss a criminal charge, he shall file a written application therefore pursuant to the provisions of the Ohio Rules of Criminal Procedure, Rule No. 48. The prosecutor shall state in a written application the reasons for the requested dismissal. A criminal charge may only be dismissed by the State by leave of court pursuant to this Rule.

### **Rule No. 17 – Traffic Violations Bureau**

- A. Pursuant to the authority of Ohio Traffic Rule 13 and Criminal Rule 4.1 there is hereby established at the Ashtabula Municipal court, a Traffic Violations Bureau. The Clerk of Court is hereby appointed as the Violations Clerk.
- B. The purpose of the Traffic Violations Bureau shall be to accept appearance, waiver of trial, plea of guilty and payment of fine and costs for offenses within the authority of the Traffic Violations Bureau.
- C. The Court hereby establishes and publishes a schedule of fines and costs for all offenses subject to the authority of the Traffic Violations Bureau. This schedule is attached hereto and marked Exhibit B and shall be distributed to all law enforcement agencies operating within the jurisdiction of the Court and shall be

prominently displayed at the payment window of the Traffic Violations Bureau of the Court.

D. The Violations Bureau shall have authority to dispose of all traffic offenses and minor misdemeanor offenses except for the following offenses:

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.
5. Driving without being licensed to drive, except where the driver's or commercial driver's license had been expired for six months or less.
6. A third moving traffic offense within a 12-month period.
7. Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for purpose of receiving or discharging a school aged child.
8. Willfully eluding or fleeing a police officer.
9. Drag Racing.
10. Wrongful Entrustment.

E. The procedure for a defendant's appearance, plea and waiver of trial at the Violations Bureau shall be as set forth in Traffic rule 13(D).

**Rule No. 18 – Non-Resident Violator Compact (O.R.C. 4511.95 AND 4511.951)**

Pursuant to the provisions of the Non-Resident Violator compact, any police officer issuing a traffic citation or minor misdemeanor citation to a resident of a member jurisdiction shall not require the violator to post collateral to secure his appearance if the arresting officer receives the violator's signed personal recognizance that he or she will comply with the summons. Any police officer issuing a citation to a non-resident motorist from a compact member jurisdiction for one of the following offenses shall not accept the violator's personal recognizance but shall instead require the violator to post security in accordance with the attached bond schedule or in lieu thereof take the violator into custody and hold the violator in custody for an immediate appearance in Court at the first available court session.

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.
5. Driving without Being Licensed to Drive, except where the driver's or commercial driver's license had been expired for six months or less.
6. Willfully eluding or fleeing a police officer.
7. Drag Racing.

8. Wrongful Entrustment.

**Rule No. 19 – Non-Resident Violator Not a Member of the Interstate Violators Compact**

Any law enforcement officer issuing a traffic citation or minor misdemeanor citation to a violator who is not a resident of Ohio but is a resident of a state which is not a signator to the Non-Resident violator Compact shall require the violator to post security in accordance with the attached bond schedule or, in lieu thereof, shall take the violator into custody and hold the violator in custody for an immediate appearance in Court at the first available court session.

**Rule No. 20 – Ohio Violator**

Any law enforcement officer issuing a traffic citation or minor misdemeanor citation to a violator who is a resident of the State of Ohio shall not require the violator to post collateral to secure his appearance if the arresting officer receives the violator's signed personal recognizance that the violator will comply with the summons. Provided, however, any such violator who has been charged with one of the following offenses shall instead be required to post security in accordance with the attached bond schedule or, in lieu thereof, the violator shall be taken into custody and held for an immediate appearance in Court at the first available court session:

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.
5. Driving without Being Licensed to Drive, except where the driver's or commercial driver's license had been expired for six months or less.
6. Willfully eluding or fleeing a police officer.
7. Drag Racing.
8. Wrongful Entrustment.

**Rule No. 21 – Continuing Traffic Appearance**

The date of any defendant's initial appearance on a traffic citation may be continued by telephone for one week. Any further continuances shall not be continued by the Court unless the defendant files a written motion with the Court in advance of the appearance date along with a brief memorandum or statement of facts setting forth the reasons requiring the continuance.

## **Rule No. 22 – Jury Use and Management**

- A. The opportunity for jury service shall not be denied or limited on basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group.
- B. The jury commissioners appointed by the Judges of the Ashtabula County Court of Common Pleas shall be responsible for the administration of the jury system, acting under the supervision of the Administrative Judge of said court.
- C. The names of potential jurors shall be drawn from the list of electors certified annually by the Ashtabula County Board of Elections, using an automated process that assures random selection procedures throughout the jury selection process and that provides each eligible person with an equal probability of selection.
- D. Persons called for jury service shall not be required to remain available for a period of more than two weeks.
- E. All requests for exemptions, excuses or deferrals, must be in writing and approved by the Judge of the Ashtabula Municipal Court.
- F. Jurors shall be compensated in accordance with the fees adopted by the Ashtabula County Board of Commissioners, and the Judge shall review the fees annually to assure that they are reasonable.
- G. Persons who fail to respond to a summons for jury service may be subject to contempt of court proceedings.
- H. The Court will provide an orientation for persons call for jury service, and such instructions as may be appropriate and necessary to increase the understanding of the judicial system and each phase of the trial process, and to prepare such persons to serve competently as jurors.
- I. A jury shall be not sequestered, except for good cause, or when required by law.

## **Rule No. 23 – Facsimile Filing**

The provisions of this local rule are adopted under Civ.R. 5(E), Civ.R. 73(J) and Crim.R. 12(B). Pleadings and other papers may be filed with the Clerk of Court by facsimile transmission to (440) 998-5786 subject to the following conditions:

### **APPLICABILITY**

- 1.01 These rules apply to criminal, traffic, civil and small claims proceedings in the Ashtabula Municipal Court.
- 1.02 The following documents will not be accepted for fax filing: Jury Demand, New Complaints, and Garnishments.

### **ORIGINAL FILING**

- 2.01 A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy for the facsimile cover sheet used for the subject filing.
- 2.02 The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief have been exhausted.

### **DEFINITIONS**

As used in these rules, unless the context requires otherwise:

- 3.01 A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
- 3.02 A “facsimile machine” means a machine that can send and receive a facsimile transmission.
- 3.03 “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

## **COVER PAGE**

4.01 The person filing a document by fax shall also provide therewith a cover page containing the following information:

- 1) The name of the court;
- 2) The title of the case;
- 3) The case number;
- 4) The assigned Judge;
- 5) The title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
- 6) The date of transmission;
- 7) The transmitting fax number;
- 8) An indication of the number of pages included in the transmission, INCLUDING the cover page;
- 9) The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available.

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

- 1) Enter the document in the Case Docket and file the document;
- 2) If filing is not clear – return by fax requesting Cover Page.

4.03 The clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the clerk of Court may inform the sending party of a failed fax filing.

## **SIGNATURE**

5.01 A party who wishes to file a signed source document by fax shall either:

- 1) Fax a copy of the signed source document; or
- 2) Fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.

5.02 A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

## **EXHIBITS**

- 6.01 Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
- 6.02 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" 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. (See appendix for sample exhibit cover sheet.)

## **TIME OF FILING**

- 7.01 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 Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. However, the fax machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays.
- 7.02 Fax filings may only be transmitted directly through the facsimile equipment operated by the Clerk of Court.
- 7.03 Documents faxed to/from a 3<sup>rd</sup> party, then forwarded to the Court are not acceptable.
- 7.04 The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.
- 7.05 The risks of transmitting a document by fax to the Clerk of Court shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through other available technological means.

## FEES AND COSTS

8.01 Within five (5) days after the court has time-stamped the transmission, the party sending the transmission shall forward to the court the applicable filing fee, if any.

8.02 This rule on facsimile filing shall not apply to the filing of a jury demand in a civil case in the court.

~~8.03 No additional fee shall be assessed for facsimile filings.~~ – (amended) Effective January 1, 2019 the Court will assess a fee of \$0.25 per page for copies. This fee also applies to civil fax filings. There is no fee for email filings.

## LENGTH OF DOCUMENT

9.01 Facsimile filing shall not exceed 10 pages in length. The filer shall not transmit service copies by facsimile.

### **Rule No. 24 – Use of electronically Produced Tickets**

Pursuant to Rule 3(F) of the Ohio Traffic Rules, the use of electronically produced tickets is hereby permitted provided that the ticket conforms in all substantive respects, including lay-out and content, to the “Ohio Uniform Traffic Ticket”. Further if a ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket. Any 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 the Ohio Traffic rules.

### **Rule No. 25 – Record Management and Retention Schedule**

The Ashtabula Municipal Court adopts the Record Management and Retention Schedule pursuant to rule 26 of the Rules of Superintendence for the Courts of Ohio.

### **Rule No. 26 – Electronic Transmission of Supreme Court Report**

The Clerk of Court shall submit in electronic format via the Ohio Supreme Court website reports as required by Supreme Court Sup.R. 3701 through 37.03. The reports shall be as prescribed by the Supreme Court and submitted no later than the fifteenth day after the close of the reporting period. Only the Judge/Administrative Judge, Clerk of Court, and Court Administrator shall have access to the Supreme Court website login credentials. The Judge/Administrative Judge, Clerk of Court, and Court Administrator



shall take all necessary steps to ensure and maintain the security of the Supreme Court website login credentials.

## **Local Rule 27**

### **Creation of the Ashtabula Municipal Court Specialized Recovery Court Docket**

#### **A. Creation of a Specialized Recovery Court Docket:**

The Ashtabula Municipal Court has established the following Specialized Recovery Court Docket according to the requirements set forth in the Superintendence Rule 36.20 through Superintendence 36.29:

1. Recovery Court: This Specialized Docket was established in 2017 (certification granted on June 15, 2018) with the goal of addressing the unique needs of the offenders with identified substance abuse issues that contributed to the underlying offense while increasing the likelihood of future criminal justice involvement. The goal of the Recovery Court Program is to reduce the likelihood of recidivism through intensive treatment, supervision and personal accountability.

#### **B. Placement in the Recovery Court:**

Potential participants can be referred to the Ashtabula Municipal Recovery Court through various ways including, but not limited to:

1. Solicitor referral
2. Judge referral
3. Probation referral
4. Defense Counsel referral
5. Jail referral
6. Treatment provider referral
7. Self-referral

A referral can be made at any stage of the court process, arraignment, pretrial, plea agreement, change of plea, intervention in lieu of conviction, post-plea, sentencing while currently court supervision/probation or as a result of a probation violation. The referring agent will complete an application form and give the form to the Solicitor. He will then contact the Drug Court Administrator (DCA), who will interview the potential participant and conduct an initial screening. If deemed appropriate, the DCA will contact the Probation Department to further evaluate the potential participant. If the potential participant is deemed eligible for the Specialized Docket, they are referred for a substance abuse evaluation to initiate the assessment process. All potential participants

referred to the Ashtabula Municipal Recovery Court are screened using the Ohio Risk Assessment System, (ORAS).

**a. Recovery Court Eligibility Criteria**

1. The target population are “high risk/high need” offenders. A high risk/high need offender is an individual who is addicted to illicit drugs or alcohol and is at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision.
2. Individuals can qualify for the Recovery Court Program as part of an intervention in lieu of conviction or post-conviction treatment and will be appropriate for care in the community as part of supervision by probation for a misdemeanor offense.
3. The program is voluntary, not everyone that is appropriate will be accepted and the potential participant must be motivated and receptive to complete the program.
4. The participant would benefit from the program by seeking substance abuse treatment.
5. The participant must reside within the jurisdiction of the Ashtabula Municipal Court, which is Ashtabula City, Ashtabula, Plymouth and Saybrook Townships.
6. The primary diagnosis is a substance abuse disorder.
7. Defendants charged with: DUI/OVI, drug trafficking, and sex crimes are ineligible to participate. Crimes involving children or elderly as victims, or violent offenses involving a victim with a serious injury, are ineligible to participate. Crimes involving a weapon are ineligible. (All of the above can be waived by the Solicitor with the consent of the alleged victim.)

**C. Case Assignment**

Judge Laura DiGiacomo is the only presiding Judge at Ashtabula Municipal Court.

**D. Drug Court Administrator/Probation Officer Role**

The role of the DCA is to maintain the daily operations of the Recovery Court Docket. The DCA will meet with potential participants upon referral. The Probation Officer will work collaboratively with the DCA regarding the participants’ compliance with program. All offenders referred to the Recovery Court Docket are screened using the ORAS. The DCA/Probation Officer monitor the participants’ compliance with their supervision/treatment plans by gathering collateral information from the treatment providers. The DCA/Probation Officer further monitors the participants’ compliance with incentives, sanctions, phase advancement, successful completing and termination. The DCA/Probation Officer may conduct visits to the participants’ residence. The DCA/Probation Officer attend each treatment team meeting and status review hearing. During treatment team meetings, the DCA/Probation Officer inform the treatment team whether treatment plans, supervision plans, and Court orders are being followed. The

DCA/Probation Officer further advise the Judge of any Recovery Court violations, provides progress reports and recommendations to the treatment team, and participates in discussions about incentives, sanctions, phase advancement, successful completion, and termination. The DCA regularly communicates with the Probation Officer. The DCA/Probation Officer will meet regularly with the participant and frequency will depend upon the phase of the participant. Participants are informed of the role of the DCA/Probation Officer and treatment phases through the program description, participant handbook, and signed participant agreement. Participants, therefore, will understand the relationship between the Court and treatment service providers and ancillary services, as well as expectations for compliance. The plan is an ever-evolving document that follows the participant through every stage of the program, thus ensuring continuity and that all identified issues and risks are addressed even beyond Recovery Court involvement.

#### **E. Termination from the Recovery Court Program**

- 1. Criteria for Successful Completion** are the guidelines used to identify how the Recovery Court participants can successfully complete the program. While the program is based on a relatively standard set of expectations, each case is assessed individually and the Judge makes the final determination of successful completion.

The following indicate a positive accomplishment to be considered for successful completion/graduation:

Participants will work through four (4) phases over the duration of their time in the Recovery Court Program. These phases are used as general guidelines that can be modified to meet a participant's specific circumstances and needs. The phases have been designed to allow the participant an opportunity to move from a more restrictive environment to a less restrictive one over a period of months. Advancement through the phases is based upon individual performance as recommended by the treatment team. Advancement through the phases of the program is contingent upon a participant's performance rather than a pre-determined timeline. The minimum time for involvement in the Recovery Court Program is eighteen (18) months to twenty-four (24) months and not less than twelve (12) months.

Compliant behavior/accomplishments may include:

- Demonstrated abstinence from alcohol and drugs as evidenced by submitting negative screens for a minimum of ninety (90) days prior to graduation;
- Successfully completed treatment and continues to regularly attend required self-help recovery programs, such as AA/NA or other Court approved evidence based programs;

- Demonstrated stability in the community;
- Being an active member in a sober support group, maintaining a sponsor and helping others obtain sponsors;
- Displayed responsibility for his/her behavior, and a change in thinking, beliefs and attitude;
- Demonstrated ability to identify and eliminate criminal thinking patterns;
- Maintained consistent employment and housing;
- Completed a project about recovery-related topic or wrote an essay requesting program completion;
- Completed Recovery Court requirements, including completing community service, paid in full of fines, restitution and court costs, unless otherwise determined;
- Displayed responsible behavior;
- Completed vocational or educational plan; and
- Demonstrated stability in the community.

Upon successful completion of all phases of the Recovery Court Program, the treatment team will recommend that the participant be recognized for their successful completion of the program. The treatment team conducts a review of the compliant behaviors and accomplishments, to include, drug testing results, violations/sanctions, incentives, treatment compliance, and aftercare activities. The treatment team makes a formal recommendation to the Judge for graduation. Judge Laura DiGiacomo has the discretion to determine when the participant will successfully complete the program. This recognition ceremony is conducted in the court where the Judge presents the participant with a completion certificate.

Graduating participants are encouraged to invite family and friends to attend. The event may also be attended by members from the treatment team, advisory committee, law enforcement, and entire probation department. The Judge will make a formal statement indicating the accomplishments of the graduate, thus reinforcing expectation for other participants.

Depending upon the case type, the underlying case is closed, or in cases implementing intervention in lieu of conviction, the underlying case is dismissed.

There are two types of written termination criteria from Recovery Court, unsuccessful and neutral discharge. The Judge has the discretion to terminate the participant from Recovery Court in accordance with the termination criteria:

Common behaviors that lead to unsuccessful termination include, but are not limited to the following:

- Ongoing noncompliance with treatment;
- Resistance to treatment;
- New serious criminal convictions;
- A serious Recovery Court infraction or series of infractions; or
- A serious probation violation or series of probation violations.

Common effects of unsuccessful termination include:

- Loss of future eligibility for the Recovery Court or other Specialized Docket;
- Further legal action, including revocation of intervention in lieu of conviction, or motion for probable cause, probation violation; and
  - Depending on the circumstances, the participant maybe subject to jail and other penalties.

To further explain, if you are an intervention in lieu participant and unsuccessfully terminated from the program for your failure to comply with the terms and conditions of the program, the stay of legal proceedings will be lifted and you will be sentenced to the usual sanctions allowable under the law for the offense(s). Disposition of the charge(s) will then be determined by the Judge and the Solicitor.

If you are a post-conviction participant and unsuccessfully terminated from the program or your failure to comply with the terms and conditions of the program, a complaint for violation of probation will be filed and the matter will be set for a violation hearing. Should the Court determine that you violated the terms of probation for being terminated from the program, then you will be sentenced to the usual sanctions allowable under the law for the offense.

**2. Neutral Discharge:** There may be circumstances in which the participant is discharged from the Recovery Court through a neutral discharge status. This status is assessed in situations when the participant has reached maximum benefit for various reasons:

- A serious medical condition;
- A serious mental-health condition;
- Death;
- Any other factor that may keep the participant from meeting the requirements for successful completion.

**3. Inactive or suspension status:** There may be circumstances where a participant is placed in inactive or suspension status for the following reasons:

- Placed in a residential facility and cannot be transported for status review hearings;
- Charged with new crimes pending adjudication and/or final disposition for sentencing;
- In need of further assessments or evaluations to determine if the Recovery Court is beneficial to the participant and the program;
- If the participant is unable/unwilling to comply with program requirements in a timely manner as directed;
- The participant has an outstanding warrant/s for non-compliance from the Recovery Court and the issue has not been resolved.

**Rule No. 28 – Registration of Surety Bail Bond Agents (*new rule*)**

Pursuant to Ohio Revised Code §3905.87(A), surety bail bond agents are not required to register with the Court prior to posting a surety bond. They will, however, be required to present all of the following documents prior to posting bail:

- 1) A COPY OF SURETY BAIL BOND LICENSE
- 2) A COPY OF DRIVER’S LICENSE OR STATE I.D. CARD
- 3) A CERTIFIED COPY OF POWER OF ATTORNEY FROM THE INSURER FOR THE SPECIFIC CASE INVOLVED AND IN THE SPECIFIC AMOUNT AS SET BY THE COURT.

*These rules adopted this 1<sup>st</sup> day of March, 2019, and shall be effective January 1, 2019. These rules shall supersede and replace prior local rules of the Ashtabula Municipal Court.*

**IT IS SO ORDERED.**

**/s/ Laura DiGiacomo, Judge**

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**LAURA DIGIACOMO, JUDGE  
ASHTABULA MUNICIPAL COURT**