

LOCAL COURT RULES OF THE MUNICIPAL COURT  
OF THE CITY OF BEND

April 10, 2023

IN THE MUNICIPAL COURT OF THE CITY OF BEND  
COUNTY OF DESCHUTES, STATE OF OREGON

In the Matter of:

Adoption of Local Rules of Court

ORDER

IT IS HEREBY ORDERED, as follows:

1. The following rules are adopted as the Local Court Rules of the Bend Municipal Court;
2. The rules shall remain in effect unless otherwise ordered by the court;
3. These rules are supplemented by the general orders, policies and procedures adopted by the court;
4. These rules shall become effective on the date of this Order; and
5. These rules are in addition to the Uniform Trial Court Rules (UTCRC) and the Oregon Rules of Civil Procedure (ORCP). UTCRC and ORCP chapters apply, where applicable, in this court unless otherwise specified by General Order.

DATED this 10<sup>th</sup> day of April, 2023.

A handwritten signature in black ink that reads "Angela Ruocco". The signature is written in a cursive style and extends to the right with a long horizontal stroke.

Angela Ruocco, Municipal Court Judge

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## CHAPTER 1 – GENERAL PROVISIONS

1. *Applicability of Local Court Rules.* These rules apply uniformly to all proceedings in the court. They apply to attorneys, parties representing themselves, and all other persons attending court.

2. *Construction of Local Court Rules.* These rules shall be construed to achieve consistency with Oregon Revised Statute (ORS) provisions and to promote the just, speedy and cost-effective adjudication of all proceedings in the court, as well as the efficient use of judicial time and resources.

3. *Amendment of Local Court Rules.* These rules may be revoked or amended by the City of Bend Municipal Court Judge.

4. *Sanctions for Violations of Local Court Rules.* The court hereby adopts and incorporates herein ORS 33.015 through 33.155.

5. *Relief from Application of Local Court Rules.* The judge may grant relief from the application of one or more rules in an individual case where good cause is shown and relief is necessary to prevent hardship or injustice.

## CHAPTER 2 – DEFINITIONS

1. *Definitions.* Unless otherwise provided for herein, and except where context requires otherwise, the following terms shall have the following definitions in all of these rules:

- a. “ADA”: The Americans with Disabilities Act of 1990, as amended.
- b. “Administrative Fee”: The supervision and administrative fee provided for in the City of Bend’s Fees Resolution.
- c. “Affidavit/Declaration Form”: The court’s testimony by declaration form, as may be amended or revised from time to time.

- d. “Attorney”: A member of the Oregon State Bar in good standing.
- e. “Bend Municipal Court Traffic Safety Programs (“BMCTSP”): Traffic Safety Videos, Fix it (Vehicle Compliance) Program, Traffic Safety School, Young Driver Program, and Driver’s Probation.
- f. “BMC”: Bend Municipal Code.
- g. “Citation”: Any of the following: 1) an Oregon Uniform Citation and Complaint or 2) City of Bend Parking Violation Citation, including a citation issued by an agent of the City of Bend.
- h. “City Attorney”: An attorney representing the City of Bend.
- i. “Clerk”: The Bend Municipal Court clerks or designee.
- j. “Contested Hearing”: A contested evidentiary hearing that is not a trial, including, but not limited to, a tow hearing, an abandoned vehicle hearing, or an exclusion hearing.
- k. “Continuance Hearing” (Also known as an “Uncontested Hearing”): A future hearing set by the court to allow a person or entity additional time to take certain actions or to provide certain documentation or information to the court.
- l. “Court”: The City of Bend Municipal Court.
- m. “Court Website”: The official website for the City of Bend Municipal Court.
- n. “Court Fines and Fees”: All of the following, which may be imposed by the court in relation to a citation or contested hearing: fines, court costs, assessments, compensatory fines, or attorney fees. The term court fines and fees also includes a civil penalty imposed on civil infractions. Inclusion of the term civil penalty within the definition of court fines and fees does not imply that the civil

penalty is criminal in nature.

o. “Court Facilities”: All areas of the court in the premises located at 555 NE 15<sup>th</sup> St., Bend, OR 97701, including the courtroom, area of the clerk’s windows/lobby, and the grounds of the court.

p. “Court Supervisor”: The Bend Municipal Court supervisor or designee.

q. “Defendant”: A person or entity that has been issued a citation, a summons and complaint, or a person or entity that has requested a contested hearing.

r. “Document”: Any paper filed or presented as an exhibit in any proceeding in the court.

s. “DMV”: The Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

t. “Electronic Citation”: A citation filed electronically pursuant to ORS 153.770.

u. “Electronic Filing”: The transmission of a digitized source document electronically via the City of Bend’s internal server systems and infrastructure from a filing agency to the court for the purpose of filing an electronic citation.

v. “Enforcement Officer”: As defined in ORS 153.005(1). The term Enforcement Officer includes a sworn City of Bend community service officer (CSO) and agents of the City of Bend authorized to issue citations for parking violations.

w. “Filing Agency”: The law enforcement agency or parking enforcement agency filing an electronic citation.

x. “Initial Appearance”: The first appearance, also known as an arraignment, of a person or entity who has been issued a citation, as defined in ORS 153.061.

y. “Judge”: The City of Bend Municipal Court Judge and any Pro-Tem City of Bend Municipal Court Judge.

z. “ORCP”: Oregon Rules of Civil Procedure.

aa. “Party”: A litigant or the litigant’s attorney, if applicable.

bb. “Trial”: Either a trial in person or a trial by affidavit/declaration, where a person or entity has made an initial written or personal appearance on any charge on a citation and either enters a plea of not guilty and requests a trial in person or trial by affidavit/declaration, or where a person or entity is otherwise allowed a trial by affidavit/declaration by the judge.

cc. “Violations Bureau”: The Bend Municipal Court Violations Bureau, as set forth in General Order 101, attached hereto as “Exhibit 1.”

dd. “Weapon”: As defined in ORS 166.360(10).

### CHAPTER 3 – COURT ADMINISTRATION

1. *Court Dates and Times.* Contact the clerk at (541) 388-5572 and press 9 Monday through Friday between the hours of 9:00 a.m. and noon and 1:00 p.m. to 4:00 p.m. to obtain current court dates and times.

2. *Information Included on Documents.* Except for exhibits presented at a trial or contested hearing, all documents must include the author’s name, address, telephone number, and, if the author is an attorney, the attorney’s Oregon State Bar number.

3. *Filing of Documents in Court.* Contact the clerk at (541) 388-5572 and press 9 Monday through Friday between the hours of 9:00 a.m. and noon and 1:00 p.m. to 4:00

p.m. to obtain current instructions for filing documents with the court. Documents delivered to the judge or to the court staff outside of a court proceeding, or otherwise, are not considered filed until received by the clerk at the court facilities.

4. *Matters Taken Under Advisement.* If any judge has taken a matter under advisement for a period of more than 90 days, it shall be the duty of all parties to the proceeding to notify the court supervisor in writing. If a matter remains under advisement for a period of more than 90 days after a party has provided written notice to the court supervisor, then that party may notify the judge in writing, with a copy to the court supervisor.

#### CHAPTER 4 – DECORUM IN PROCEEDINGS - revised 4/10/23

1. *Decorum in the Court.* All persons appearing in the court, including persons entering or leaving the courtroom, shall conduct themselves with due restraint and decorum while in the court. No person shall in any manner disturb the peaceful and proper function of the court while within the court facilities.

2. *Undue Familiarity.* All persons appearing in the court, including, but not limited to, parties, court staff, and judges, shall refrain from showing undue recognition or familiarity with any person in the court.

3. *Prohibited Activities.* The following are prohibited while the court is in session:

a. Unnecessary or disruptive conversation, commotion, or other distracting behavior;

b. Loud, boisterous, or other intentionally disruptive behavior;

c. Possession or consumption of any food or drink, except for water;

and



d. Use of a mobile electronic device as defined in ORS 811.507(1)(d)(B) and ORS 811.507(1)(e).

e. All animals except for service animals. The ADA defines a service animal as a dog that is individually trained to do work or perform tasks for a person with a disability.

4. *Media in the Court / Use of Cameras and Recording Devices.* The court adopts a Municipal Court Recording Order, set forth in General Order 103.

5. *Persons Permitted Within Bar of Court.* Except as otherwise permitted by the court, during the trial of any case or the presentation of any matter to the court, no persons, including, but not limited to, members of parties' families, shall be permitted within the bar of the courtroom, other than clients, attorneys, court personnel, and witnesses when called to the stand.

6. *Contempt Sanctions for Willful Violation.* Any willful violation of this Order shall be grounds for a summary finding of contempt of court, within the meaning of ORS 33.096, and for imposition of sanctions in accordance with ORS 33.015 et. seq.

## CHAPTER 5 – MUNICIPAL COURT SECURITY - revised 4/10/23

Pursuant to ORS 166.370(2)(b), the court adopts a Municipal Court Security Order, set forth in General Order 102.

## CHAPTER 6 – ACCOMMODATIONS FOR LANGUAGE AND DISABILITIES - revised 4/10/23

1. *Language Accommodations and Proceedings.*

a. Notice to Court. If a foreign language interpreter is needed for a person in a court proceeding, the party needing the interpreter for the person shall notify the court, in writing, not less than seven days prior to the proceeding.

b. Contents of Notice. The notice to the court must provide:

- i. The name of the person needing the interpreter;
- ii. The case number;
- iii. The nature of the proceeding;
- iv. The person's status in the proceeding;
- v. The time, date, and estimated length of the proceeding; and
- vi. The language to be interpreted.

c. In Person or Telephone Interpreter. The court may provide an in-person interpreter or an interpreter via telephone. The first court docket of the month is reserved for adjudicating Spanish-language dockets.

## 2. *Disability Accommodations.*

a. Notice to Court. If an accommodation under the ADA is needed for a person in a court proceeding, the party needing the accommodation for the person must notify the court as soon as possible, but at a minimum seven days prior to the proceeding.

b. Contents of Notice. The notice to the court must provide:

- i. The name of the person needing the accommodation;
- ii. The case number;
- iii. The nature of the proceeding;
- iv. The person's status in the proceeding;
- v. The time, date, and estimated length of the proceeding;
- vi. The type of accommodation or auxiliary aid needed or

preferred by the person.

c. Waiver of Notice. For good cause shown, the judge may waive the seven-day advance notice requirement.

## CHAPTER 7 – ELECTRONIC CITATIONS

1. *Authorization.* The filing of electronic citations is hereby authorized, subject to the terms and conditions in this Order and ORS 153.770, as adopted and incorporated herein.

2. *Prerequisites.* Before filing an electronic citation, a filing agency must have obtained written approval for filing electronic citations from the court.

3. *Required Information.* Each electronic citation must contain all of the following information:

a. The information required by ORS 153.770(2)(a); and

b. For the enforcement officer issuing the electronic citation:

i. A unique identification number;

ii. Name;

iii. Electronic signature; and

iv. Identity of the law enforcement agency or parking enforcement agency employing the Enforcement Officer or parking enforcement agent.

c. A unique number from a number series approved by the court.

4. *Number of Violations.* An electronic citation may contain up to three offenses on a single complaint.

5. *Paper Copy of Citation to Defendant.* If a citation is filed as an electronic citation, the Enforcement Officer who issued the citation shall provide the defendant with a paper copy of the citation, as required by Oregon law.

6. *Conversion of Citations Filed on Paper.* For citations filed in paper format, the court may scan the citation, along with any supporting documentation and correspondence, and reformat those documents to an electronic record.

7. *Time of Filing.* Electronic filing shall be available twenty-four hours per day, seven days a week. The electronic filing of an electronic citation must be completed by 4:00 p.m. to be considered timely filed that day. Electronic citations transmitted after 4:00 p.m. on a court day shall be deemed filed on the next normal court day.

8. *Official Court Record.* Electronic citations and citations which have been manually scanned and reformatted into electronic format, including those to which additional information, court orders, judgments, and judicial signatures have been added, shall be the original and legal court record. Paper records, if maintained, will be considered a copy of the official court record.

9. *Judicial Signatures.* The court may issue judicial decisions and signatures electronically and may affix the judge's signature by electronic means, subject to the following conditions:

b. The court supervisor must maintain the security and control of the methods for affixing electronic judicial signatures; and

c. Those methods must be accessible only to the signer and the court supervisor or the court supervisor's designee.

10. *Filer Responsibility for Filing Problems.* A filing agency that elects to file a citation as an electronic citation shall be responsible for any delay, disruption, or interruption of the electronic signals, readability of the document, and accepts the full risk that the document may not be properly filed with the court.

## CHAPTER 8 – REPRESENTATION BY ATTORNEYS

1. *Notice of Appearance.* If a defendant intends to be represented by an attorney at any proceedings in the court, the defendant or their attorney must file written notice of representation with the court at least ten days prior to the proceeding. A copy of the written notice must be served on the citing agency and proof of such service must be filed with the court.

2. *Continuation of Representation.* If an attorney makes a personal or written appearance for a party, that attorney is deemed to be that party's attorney of record for the proceeding, until the attorney withdraws or another attorney is substituted for the original attorney.

3. *Entry of Plea on Behalf of Defendant.* If an attorney has filed a written notice of appearance on behalf of a defendant, the attorney may enter a plea on behalf of the defendant.

4. *Advice to Clients and Witnesses of Court Formalities.* Attorneys are required to advise their clients and witnesses of the formalities of the court and must encourage their cooperation.

5. *Withdrawal of Attorney.*

a. *Motion to Withdraw.* An attorney who has appeared in a proceeding may seek leave from the court to withdraw as attorney of record by filing with the court a written motion to withdraw, a supporting affidavit/declaration setting forth the grounds for the withdrawal, and a proposed form of order for the judge to sign.

b. *Grounds for Motion.* A motion to withdraw must not be made for the purposes of delay or to frustrate any prior case related rulings of the court.

c. Required Information. The motion to withdraw or supporting affidavit/declaration must include the name, address, and telephone number of the party for whom the attorney is seeking leave to withdraw and the date and time of any scheduled trial or hearing in the proceeding.

d. Service of Motion. Copies of the motion to withdraw, the supporting affidavit/declaration, and proposed form of order must be served on the party, any other parties who have appeared in the proceeding, and the citing agency or the City Attorney, if the City Attorney has appeared in the proceeding, and proof of such service must be filed with the court.

e. Pending Allowance of Withdrawal. The attorney remains the attorney of record, unless and until the motion is granted and the order is signed by the judge.

6. *Substitution of Attorney.* At any time, a party may substitute an attorney for another attorney by filing with the court a written notice of substitution signed by both the original attorney and the new attorney, which contains the name, address, and telephone number for both the party and the new attorney. That notice must be served on the opposing party, any other parties who have appeared in the proceeding, and the citing agency or the City Attorney, if the City Attorney has appeared in the proceeding.

## CHAPTER 9 – INITIAL APPEARANCES AND CONTINUANCES - revised 3/5/21

1. *General Options for Making Initial Appearance.* The court hereby adopts and incorporates herein the provisions of ORS 153.061.

2. *Appearance through Attorney.* An attorney may appear on behalf of a defendant as allowed by law.

3. *Mandatory Personal Appearance.* Under the following circumstances, written appearance, and appearance by and through an attorney, are not permitted and the personal appearance of the defendant on or before the time and date written on the summons issued to the defendant is required:

a. *Careless Driving with Vulnerable User.* Pursuant to ORS 153.061(2), when the defendant was cited for careless driving under ORS 811.135 and the Enforcement Officer noted on the citation that the offense contributed to an accident and that a vulnerable user of a public way suffered serious physical injury or death by reason of the offense; or

b. *Animal Nuisance.* When the defendant was issued a citation for a violation of BMC 5.20.040(A) and (B).

4. *Failure to Appear at Initial Appearance.* If a defendant fails to timely appear on or before the time and date written on the summons issued to the defendant, the court will issue a failure to appear notice to the mailing or email address on file for the defendant. If a defendant fails to appear within the additional time allowed, then the defendant shall be adjudged guilty by default and a default judgment shall be entered pursuant to ORS 153.102. The clerk shall then issue a notice of suspension of license for failure to appear to the DMV, unless such issuance is prohibited by law or other rule or order of the court, and shall impose a license suspension fee, if applicable, as provided by ORS 809.267.

5. *Requesting a Continuance Hearing.* If a defendant timely appears at or before the time and date written on the summons issued to the defendant and enters a plea of no contest, the defendant may request additional time to provide certain additional

information or documentation or to take certain remedial or corrective actions. If allowed by the court, the judge may then set a continuance hearing at a later date and time.

6. *Failure to Appear at a Continuance Hearing.* If the defendant fails to return to court or provide the court with the additional documentation or information or proof of completion of the remedial or corrective actions, then the defendant shall be adjudged guilty by default and a default judgment shall be entered pursuant to ORS 153.102.

## CHAPTER 10 – ENTRY OF PLEA

1. *Effect of Plea of Guilty to an ORS Violation.* If a defendant cited for an ORS violation enters a plea of guilty to that offense, the judge or clerk shall administer the plea of guilty as a plea of no contest for all intents and purposes.

2. *Effect of Plea of Not Guilty to an ORS Violation.* If a defendant cited for a ORS violation enters a plea of not guilty to that offense, the judge or clerk shall administer the plea of not guilty as a denial of committing the violation for all intents and purposes and shall proceed with setting the matter for trial.

3. *Effect of Plea of Guilty or No Contest to a BMC Violation.* If a defendant cited for a BMC violation enters a plea of guilty or no contest to that offense, the judge or clerk shall administer the plea of guilty or no contest as an admission of the civil infraction for all intents and purposes.

4. *Effect of Plea of Not Guilty to a BMC Violation.* If a defendant cited for a BMC violation enters a plea of not guilty to that offense, the judge or clerk shall administer the plea of not guilty as a denial of liability for the civil infraction for all intents and purposes and shall proceed with setting the matter for trial.



5. *Effect of Failure to Enter Plea.* If a defendant fails to enter a plea to a citation, or the plea entered is unclear to the judge or clerk, the judge or clerk shall presume that the defendant entered a plea of no contest to the citation.

6. *Effect of Refusal to Enter Plea.* If a defendant refuses to enter a plea of no contest or not guilty to a citation, the judge or clerk shall enter a plea of not guilty and set the matter for trial.

## CHAPTER 11 – SETTLEMENT PROCEDURES

1. *Policy.* It shall be the policy of the court to encourage the parties to a citation to reach a negotiated resolution to the citation.

2. *Reporting Settlements to the Court.*

a. *Appearance.* If a settlement is reached, the parties should appear at the next scheduled appearance, hearing, or trial of the matter and report the terms of the settlement to the court.

b. *Written Statement.* In lieu of personal appearance at the initial appearance or trial, the parties may submit to the court a written statement, signed by all parties or their attorneys, which contains the terms of the settlement. The signed statement must be received by the court not less than 48 hours prior to the time set for the initial appearance or trial. If the statement is not received by the court at least 48 hours prior, then the parties must personally appear and report the settlement, unless otherwise allowed by the court.

3. *Acceptance and Enforcement of Settlement by Judge.* The judge may accept or reject the terms of the settlement agreed to by the parties. If the judge accepts the terms of the settlement agreed to by the parties, the judge shall cause the parties' agreement to be entered as an order of the court. If the judge rejects the terms of the

settlement agreed to by the parties, the judge has discretion to recommend modifications to the terms.

4. *Compliance with Law, Rules, and Policy.* No settlement agreement reached by the parties shall be enforced by the court if the settlement agreement is contrary to law, rules or policies of the court, or public policy.

## CHAPTER 12 – TRIALS

1. *Cases to be set for Trial.* Consistent with ORS 153.070, if a defendant appears and requests a trial, and if the trial is required by law or if the trial is required by the court under ORS 153.070, then the court shall set a date, time and place for trial.

2. *Time and Place of Trial.* Unless otherwise ordered by the court, all trials shall be held at the court facilities during the court's regular hours of operation.

3. *Notice of Trial.*

a. Notice to the Defendant. Consistent with ORS 153.073, unless the defendant waives such notice in writing, the court shall mail to or otherwise provide to the defendant written notice of the date, time, and place of trial not less than five calendar days before the date set for trial.

b. Suspension Warning. Consistent with ORS 153.073, the written notice of trial provided to the defendant shall contain a warning to the defendant that, if the citation is a traffic violation or is for a violation of ORS 471.430 (relating to the purchase of or sale of alcohol by minors), the defendant's driving privileges are subject to suspension under ORS 809.220 if the defendant fails to appear at trial.

c. The court shall also provide notice of the date, time, and place of trial to the Enforcement Officer(s).

4. *Pre-Trial Discovery.* The court hereby adopts and incorporates herein the provisions of ORS 135.815 through ORS 135.873.

5. *Motions to Suppress Evidence.* The court hereby adopts and incorporates herein the provisions of UTCR 4.060.

6. *Change of Judge.* Motions to change the assigned judge are waived unless they are filed with the clerk no less than 10 days prior to the trial or hearing date. The court hereby adopts and incorporates herein the provisions of ORS 221.353.

7. *Appearance by Telecommunication.*

a. As used herein, the term telecommunication means communication by telephone or other electronic device that permits all participants to hear and speak with each other.

b. Any party may request to appear at trial via telecommunication. Such a request must be in writing and must be received by the court not less than thirty days prior to the trial or hearing at which the telecommunication testimony will be offered. The party requesting telecommunication appearance shall simultaneously serve a copy of the request on all other parties. The written request shall include the telephone number for the party requesting telecommunication. Any response to a request for telecommunication appearance must be served and filed not more than seven days after the request was filed.

c. The court will generally approve requests for appearances through telecommunication if the request is based upon personal safety concerns due to a pandemic, illness, personal or family emergency, or if the party requesting telecommunication (or the party's attorney or witness, if applicable) resides more than 50 miles from the court.

d. If the court allows appearance by telecommunication, the party requesting telecommunication shall initiate the telecommunication and shall bear any expenses of telecommunication.

8. *Conduct of Trial.* The court hereby adopts and incorporates herein the provisions of ORS 153.076.

9. *Trial Format.* Except where circumstances require otherwise, a trial will adhere to the following format:

a. Pretrial motions, if any;

b. Opening statements or remarks, if any;

c. Presentation of prosecution witness(es), including direct presentation or examination, cross examination by the defendant, redirect, recross based on redirect;

d. Presentation of defense witnesses, including direct presentation or examination, cross examination by the prosecution, redirect, recross based on redirect;

e. Closing arguments; and

f. Except for matters taken under advisement by the judge, announcement of ruling and verdict by the judge.

10. *Questioning by Judge.* During a trial, the judge may take an active role in questioning witnesses to ensure clarity in the proceeding and to ensure that substantial justice will be done.

11. *Electronic Evidence.* The court hereby adopts and incorporates herein the provisions of UTCR 6.190.

12. *Disposition of Exhibits.*

a. General Procedure. All exhibits shall be returned to the party that presented the exhibit at the conclusion of the trial.

b. Matters Taken Under Advisement. At the conclusion of the trial, if the court takes the matter under advisement and retains any exhibits for that purpose, then upon entry of the court's disposition of the matter, the court shall notify the party that presented the exhibits in writing at the party's last known address that the party may contact the court to make arrangements for the return of the exhibits and that any exhibits remaining with the court 30 days after the mailing of the notice shall be destroyed.

c. Inadvertent Retention of Exhibits. If any exhibits are inadvertently left in the custody or control of the court, the court shall notify the party in writing at the party's last known address that presented the exhibits that the party may contact the court to make arrangements for the return of the exhibits and that any exhibits remaining with the court 30 days after the mailing of the notice shall be destroyed.

13. *Contested Hearings*. Except where context requires otherwise, contested hearings shall be handled in the same manner as trials described above.

## CHAPTER 13 – TRIALS BY AFFIDAVIT – revised 3/5/21

1. *Authorization of Trial by Affidavit/Declaration*. The court is hereby authorized to offer trial by affidavit/declaration to defendants who wish to plead not guilty to one or more violations but who do not wish to have a trial in person before the court.

2. *Testimony by Affidavit/Declaration*. The court hereby adopts and incorporates herein the provisions of ORS 153.080.

3. *Use of Unsworn Declaration.* Pursuant to ORCP 1(E), the affidavit/declaration shall be in the form of a declaration under the penalty of perjury.

4. *Trial by Affidavit/Declaration Procedures.*

a. A defendant that appears in court shall be notified of the defendant's option to proceed by a trial by affidavit/declaration.

b. If a defendant elects to proceed by trial by affidavit/declaration, the clerk shall provide the defendant with the required affidavit/declaration form and the due date for return of the affidavit/declaration form to the court. The due date shall be not less than 40 days after the date that the defendant elects to proceed by trial by affidavit/declaration.

c. After providing the affidavit/declaration form to the defendant, the clerk shall provide a copy of the affidavit/declaration form to the Enforcement Officer(s) who issued the citation(s).

d. Pre-trial discovery shall proceed as provided in ORS 135.815 through ORS 135.873. If either the defendant or the Enforcement Officer(s) fail to return the affidavit/declaration form in the time permitted, the clerk may proceed with entry of judgment as provided by ORS 153.102.

e. Once the clerk has received the affidavit/declaration form and any supporting exhibits or documentation from both the defendant and the Enforcement Officer(s), the clerk shall forward the citation(s) to the judge for review and adjudication.

5. *Suspension Warning.* Consistent with ORS 153.073, the written notice of trial by affidavit/declaration provided to the defendant shall contain a warning to the defendant that, if the offense is a traffic violation or is for a violation of ORS 471.430

(relating to the purchase of or sale of alcohol by minors), the defendant's driving privileges are subject to suspension under ORS 809.220 if the defendant fails to appear on the trial by affidavit/declaration.

## CHAPTER 14 – RESETTING OF TRIALS AND CONTESTED HEARINGS

### 1. *Requests to Reset Trials.*

a. *First Reset Request.* Each party shall be entitled to one reset of a trial date without cause if a request is made in writing and received by the court not less than seven calendar days prior to the existing trial date. If a request to reset a trial date is received less than seven days prior to the trial date, it must be approved by the judge.

b. *Second Reset Request.*

i. A second reset request is discretionary to the judge. The judge may grant a second reset request if the party requesting the second reset demonstrates reasonable grounds for the inability of the party, the party's attorney, or the party's pivotal witness(es) to appear at the scheduled trial.

ii. A party's second request for a reset of a trial date must be presented in writing and must be received by the court not less than seven days prior to the trial date, unless otherwise allowed by the judge.

iii. The following is a non-exclusive list of factors which may result in a second reset of a trial date:

1. Serious illness or injury of any party, attorney, or pivotal witness;

2. Medical emergency or funeral of a family member or close friend of a party, attorney or pivotal witness; or

3. Other emergency circumstances or factors which could not reasonably have been anticipated until at or near the time when the request for a reset was made.

iv. The following is a nonexclusive list of factors which are unlikely to result in a second reset of a trial date:

1. Failure to timely complete discovery;

2. Failure to timely locate, schedule or subpoena witnesses;

3. Vacation or training programs scheduled after the second trial date was set;

4. Failure to adequately prepare for trial; or

5. Any other factors that were known or reasonably should have been known or anticipated by the party seeking the reset, but which were not brought to the court's attention until shortly before trial.

c. *Effect of Prior Failure to Appear.* The court hereby adopts and incorporates herein the provisions of ORS 153.061.

d. *Notice of New Trial Date.* If a reset is granted, the court will provide written notice all parties to the action of the new trial date.

2. *Reset Requests for Contested Hearings.* Requests for resets of contested hearings shall be handled in the same manner as requests for resets of trials.



## CHAPTER 15 – FAILURE TO APPEAR AT TRIAL

1. The court hereby adopts and incorporates herein the provisions of ORS 153.102.

## CHAPTER 16 – ENTRY OF JUDGMENT - revised 4/10/23

1. *Entry of Judgment.* The court hereby adopts and incorporates herein the provisions of ORS 153.102.

2. *Provisions of Judgment on Citation.* Upon entry of judgment on a citation, the judge or clerk shall take each of the following actions:

a. *Imposition of Fine.* Consistent with ORS 153.090(3), a fine shall be imposed as follows:

i. *After Default.* Any fine within the statutory or BMC limits for the violation, plus a failure to appear fee and a license suspension fee, if applicable, each as provided in the current version of the City of Bend Municipal Court Fee Schedule.

ii. *After No Contest Plea.* The fine imposed shall not exceed the presumptive fine for the violation. If a defendant believes that he or she is eligible for a fee reduction as set forth in the City of Bend Municipal Court Fee Schedule, it is the defendant's responsibility to notify the court of said belief of eligibility and to request a reduction.

iii. *After Trial.* Any fine within the statutory or BMC limits for the violation, in an amount determined by the judge.

iv. *After Failure to Appear at Trial.* The fine imposed shall not exceed the presumptive fine for the violation, plus a failure to appear fee

and a license suspension fee, if applicable, each as provided in the current version of the City of Bend Municipal Court Fee Schedule.

b. Due Date for Court Fines. Unless otherwise ordered by the judge, all court fines and fees shall be due and payable within 90 days of entry of the judgment.

c. Notice to Defendant. The clerk shall cause a notice to either be emailed or mailed to the defendant at the defendant's last known email or mailing address or delivered to the defendant in person. The notice shall advise the defendant of the entry of the judgment. When appropriate, the notice shall advise the defendant of the defendant's opportunity to appeal the judgment or other order to the Deschutes County Circuit Court.

d. License Suspension for Failure to Appear. Pursuant to ORS 153.061(8) and ORS 809.220, if the defendant failed to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557 or failed to appear at any other subsequent trial or other appearance, the clerk shall cause a notice of suspension of license for failure to appear to be delivered to the DMV, unless such delivery is prohibited by law or other rule or order of the court.

e. Collections. Unless the defendant causes the judgment to be set aside, pays the judgment in full, or sets up and is current with an approved payment plan with the court, and after at least 30 days have expired since the issuance of the default notice, the clerk shall, unless otherwise authorized by the judge, refer the judgment to a collections agency.

3. *Provisions of Order or Judgment on Contested Hearing.* Unless otherwise ordered or directed by the judge upon entry of an order or judgment after a contested hearing, the judge or clerk shall take each of the following actions:

a. *Adjudication.* The court shall issue an order or judgment that embodies the court's ruling on the contested hearing;

b. *Failure to Appear.* If the defendant fails to appear, the clerk shall impose a failure to appear fee as provided in the current version of the City of Bend Municipal Court Fee Schedule; and

c. *Notice to Defendant.* The clerk shall cause a notice to be mailed or emailed to the defendant at the defendant's last known email or mailing address or delivered to the defendant in person.

## CHAPTER 17 – RELIEF FROM JUDGMENT

1. *Relief from Default Judgment.* The court may review or grant any relief related to a judgment where less than one year has elapsed since entry of the judgment, and may relieve a defendant from the judgment upon a showing that the failure of the defendant to appear at the first appearance was due to mistake, inadvertence, surprise or excusable neglect. ORS 153.105. To seek relief from judgment, the defendant shall complete a motion to vacate together with the necessary documents and filing fees within one year after the date of entry of the judgment.

2. *Review of Motion to Vacate.* The motion to vacate shall be reviewed by the judge and the judge shall decide the motion and grant or deny relief as the judge deems appropriate. There shall be no right of appeal or writ of review of an order denying a motion to vacate.

## CHAPTER 18 – COLLECTION AGENCIES - revised 4/10/23

1. *Use of Collection Agencies.* As provided by ORS 137.118(2)(c)(A), the court may assign a judgment against a defendant to a private collection agency for collection when payment on court fines and fees is overdue.

2. *Imposition of Collections Fee.* As allowed by ORS 137.118(3), if the court provides a defendant with a period of time to pay court fines and fees after the date of imposition of the sentence, or after the date of the hearing or proceeding that results in the imposition of court fines and fees, and the defendant fails to pay court fines and fees within the time allowed, then the court shall add a collections fee to the judgment, as provided herein.

3. *Amount of Collections Fee.* As provided by ORS 137.118(3), the amount of the collections fee:

a. Shall not exceed 25% of the total court fines and fees amount imposed by the court; and

b. Shall not exceed a total of \$250.00 for each violation.

4. *Waiver of Collections Fees.* All or any portion of the collections fee imposed by the court may be waived or suspended by the judge upon a showing of extenuating circumstances, such as extreme financial hardship or indigence.

5. *Minors.* Notwithstanding the foregoing or any other contrary order of the court, for a defendant who is age 17 years or younger, the court shall not assign the judgment to a private collections agency until after the defendant attains the age of 18 years.

## CHAPTER 19 – UNPAID JUDGMENTS - revised 4/10/23

1. *Closing of Uncollectible Cases.* The court supervisor, or designee, may close all cases where:

a. Death of Defendant. The court supervisor, or designee, has determined that the defendant is deceased. Such determination may be made on the basis of:

- i. A copy of the defendant's death certificate;
- ii. A copy of the defendant's death notice published in a newspaper; or
- iii. Such other proof as may satisfy the court supervisor, or designee, that the defendant is deceased.

b. Judgment Uncollectible for 10 Years.

- i. The case has been assigned to collections;
- ii. More than 10 years have passed since the entry of the judgment; and either:

1. Neither the court nor any collections agency or judgment assignee has been able to locate the defendant; or

2. Neither the court nor any collections agency or judgment assignee has been able to collect the judgment from the defendant.

c. Extenuating Factors. All or any portion of the Unpaid Judgment imposed by the court may be waived or suspended by the judge if:

- i. The case has been assigned to collections.

ii. Fewer than 10 years but more than five years have passed since the entry of judgment; and

iii. The individual seeking relief provides sufficient documentation to the court that establishes continued collections activity presents an extreme financial hardship. Factors to be considered, though not exhaustive, may include indigence, incarceration, and permanent disability.

## CHAPTER 20 – VIOLATIONS BUREAU

1. Pursuant to ORS 153.800, the court has established a Violations Bureau as set forth in General Order 101, attached hereto as “Exhibit 1.”

## CHAPTER 21 – ADMINISTRATIVE FEES

1. *Administrative Fee.* The City of Bend’s Fees Resolution authorizes the collection of an administrative fee.

2. *Imposition of Administrative Fee.* When a citation or portion of a citation qualifies for dismissal, the judge or clerk shall impose the applicable administrative fee.

3. *Entry of Dismissal Only upon Collection of Administrative Fee.* The violation shall be dismissed only after receipt of payment in full of the administrative fee. If the administrative fee is not paid within the time allowed, then the clerk may proceed with entry of judgment against the defendant on the citation, except that the clerk shall not charge a failure to appear fee.

## CHAPTER 22 – MOBILE ELECTRONIC DEVICES - revised 4/10/23

1. Any person who enters a plea of no contest, is found guilty at trial, or who is found in default after being cited under ORS 811.507 is ineligible to attend an approved traffic safety school class as a condition of dismissal.

## CHAPTER 23 – IGNITION INTERLOCK DEVICE – FAILURE TO INSTALL

– revised 12/30/21

1. Any person who enters a plea of no contest, is found guilty at trial, or who is found in default after being cited under ORS 813.602 shall attend an approved traffic safety school class as a condition of conviction.

## CHAPTER 24 – COURT PROGRAMS – - revised 4/10/23

1. *Bend Municipal Court Traffic Safety Programs (BMCTSP)*. BMCTSP consists of Traffic Safety Videos, Fix it (Vehicle Compliance) Program, Traffic Safety School which includes the Young Driver Program, Adult Driver Improvement Program, At-Risk Driver Program, and Driver's License Program. Specific program qualifications and requirements can be found at the Court website. The defendant shall notify the court, in writing, on or before the time and date written on the summons issued to the defendant that the defendant is eligible and wishes to participate in a BMCTSP. The court may authorize and/or require a defendant's participation in a BMCTSP if:

- a. The defendant enters a plea of no contest, meets the eligibility requirements, and requests to participate in the applicable BMCTSP;
- b. The court convicts the defendant and requires the defendant to attend an approved traffic safety school as part of the defendant's sentence; or
- c. As justice so requires.

1. Eligibility. Drivers may not qualify for the Traffic Safety School if:
  - a. The incident involved an accident.
  - b. The incident involved alcohol and/or a controlled substance.
  - c. The incident occurred in a work zone, school zone, or other safety corridor.
  - d. As of October 1, 2017, distracted driving/cell phone citations.

2. *Approved Traffic Safety School Classes.* Contact the clerk directly for a list of current court approved classes. Only Bend Municipal Court-approved traffic safety school classes will be accepted by the court. There are no exceptions. If a defendant is otherwise eligible to participate in traffic safety school, but cannot reasonably attend one of the approved classes, the defendant may seek written approval of an alternative class. Such request shall be made in writing and in advance of the class completion deadline. Only the judge may approve an alternative class.

3. *Extension of Time to Attend an Approved Traffic Safety School Class.* Extensions of the time period to complete an approved traffic safety school class generally shall not be granted. All extensions of time must be approved by the judge.

4. *Procedure for Dismissal upon Satisfaction of Completion Requirements.* If a defendant satisfies all of the completion requirements of the applicable BMCTSP within the time allowed, the clerk shall dismiss the underlying violation. In no event shall more than one traffic violation be dismissed based on participation in a BMCTSP, unless such multiple dismissals are approved by the judge.

5. *Non-Compliance.* If a defendant is authorized to participate in a BMCTSP as a condition of dismissal of the underlying violation(s), but fails to satisfy all of the completion requirements within the time allowed, plus any extensions approved by the judge, the court may, without prior notice to the defendant, set aside the BMCTSP authorization, convict the defendant on the underlying violation(s), and may impose the presumptive fine as written for the underlying violation(s) on the citation without further notice to the defendant.

6. *Traffic Safety School as Sentence.* If a defendant is convicted of a violation, the court may order the defendant to successfully complete an approved traffic safety



school class as a condition of conviction. If the defendant fails to successfully complete the required traffic safety school within the time period allowed by the court, the court may impose the full fine, or any higher fine up to the maximum fine allowed, plus a license suspension fee, if applicable, without further notice to the defendant.

7. *No Credit, Refund, or Offset for Class Fees.* A defendant shall not receive a credit, refund or offset against court fines and/or fees for any amount paid to the approved class provider to attend a traffic safety school class.