

SUPPLEMENTARY RULES OF THE MUNICIPAL
COURT OF THE CITY OF NEWBERG

Effective August 13, 2019

IN THE MUNICIPAL COURT OF THE CITY OF NEWBERG
COUNTY OF YAMHILL, STATE OF OREGON

In the Matter of Adoption
of Rules of Court

)
)

ORDER

IT IS HEREBY ORDERED, as follows:

1. The following rules as amended are adopted as the Supplemental Rules of the Newberg Municipal Court (SRNMC);
2. The rules shall remain in effect until otherwise ordered by the Court;
3. These rules are supplemented by the general orders, policies and procedures adopted by the Court; and
4. These rules shall become effective on August 13, 2019.
5. These Supplementary Court Rules are in addition to the Uniform Trial Court Rules (UTCRC). All of the UTCRC Chapters apply where applicable in this Court. These supplemental rules are numbered to match UTCRC chapter numbers therefore they are not chronologically numbered.

DATED August 13, 2019



Larry J. Blake Jr.
Presiding Judge
Newberg Municipal Court

TABLE OF CONTENTS

1. GENERAL PROVISIONS	Page 4
2. STANDARDS FOR PLEADINGS AND DOCUMENTS	Page 4
3. DECORUM IN PROCEEDINGS	Page 5
4. PROCEEDINGS IN CRIMINAL CASES	Page 6
5. TRIALS	Page 7
6. CASE MANAGEMENT AND CALENDARING	Page 9
APPENDIX A – WAIVER OF ARRAIGNMENT TEMPLATE	
APPENDIX B – SET-OVER MOTION TEMPLATE (CRIMINAL)	
APPENDIX C – SET-OVER MOTION TEMPLATE (VIOLATIONS)	

1. GENERAL PROVISIONS

- 1.0 The City of Newberg's Court shall be hereafter known as the Municipal Court of the City of Newberg, Yamhill County, Oregon. The acronym "NMC" is shorthand for Newberg Municipal Court.
- 1.2 The Court shall be open for the transaction of business at times specified by the City Council as recommended by the Court. Currently, the Court is held every Tuesday starting at 9:00 a.m. The Court Clerk Window and Office is open Monday through Friday, 8:00 a.m. to 4:30 p.m. Consult the City of Newberg Municipal Court website for phone hours.
- 1.4 The Court is located at the "Public Safety Building" at 401 E. Third St., Newberg, Oregon. The Court Administrator contact information is as follows: 503-537-1241 court@newbergoregon.gov
- 1.6 The official website for the City of Newberg Municipal Court is:
<https://www.newbergoregon.gov/finance/page/municipal-court>

2. STANDARDS FOR PLEADINGS AND DOCUMENTS

2.0 Assigning Docket Numbers

All misdemeanor and code service filings shall be made by the City Attorney's Office. Traffic violations, traffic crimes, and parking citations shall be filed by Newberg Police Department or the police traffic contractor. A case is considered filed in this court when the charging instrument is entered into the court computer system. All court filings after the original filing shall use the court case number.

2.2 Approval of Documents

All documents produced by the Court for any appearance in any case, including a judgment in a criminal case, shall be reviewed by all parties and approved prior to leaving the Court. Any concerns that a document does not accurately reflect what occurred at the proceedings shall immediately be reported to the court for clarification and correction, if needed.

3. DECORUM IN PROCEEDINGS

3.0 Formal Opening of Court

The Court shall be formally opened each morning, and again after each recess on days there is business to transact.

3.181 Media Coverage of Court Events

UTCRC 3.180 as well as this supplementary rule applies to NMC.

Video and still camera equipment may operate through the windows into the courtroom from the hallway. Any media coverage in any form must abide by the terms of UTCRC 3.180.

In Newberg Municipal Court, one pool video camera and one pool still camera and one pool tape recorder may be allowed and abide by UTCRC 3.180(7). Pooled media coverage is always the rule in the hallway outside the courtroom. When public access coverage is allowed in the courtroom, it shall be through pooled video and tape recorder coverage unless otherwise ordered by the court. Pooled media coverage is the coverage described in UTCRC 3.180. In addition to UTCRC 3.180, this rule applies to any and all recording or transmittal of court proceedings by any electronic means.

Media shall request in courtroom recording in writing at least 24 hours prior to the hearing. The judge may limit recording of witnesses for good cause.

The judge handling the proceeding may authorize exceptions to this rule prior to court convening.

3.182 Private Video, Camera or Recording of Court Proceedings

Video recording, still camera recording, tape recording or any other recording or transmittal of court proceedings by any electronic means by a private party, member of the public or a party in a case shall only be permitted with prior approval of the judge handling the court proceeding. Any request to record shall be made at least 24 hours prior to the hearing in writing. The decision to allow the coverage is in the sole discretion of the judge.

3.2 Flags in Courtroom

The flags of the United States and of the State of Oregon shall be displayed near the bench at all times court is in session.

3.4 Attorneys Shall Make Themselves Known to Court

Upon arrival in the courtroom, contact the court clerk to discuss the anticipated length of the matter so the clerk can schedule order of cases appropriately.

3.6 Proper Use of Court Chambers

Except when Court business is to be conducted and counsel for respective parties are present, counsel, parties and witnesses should not congregate in the Court's chambers, and should not use the facilities without the special permission of the Court.

3.8 Peaceful Functioning of Court

No person shall in any manner disturb the peaceful and proper functioning of the Court and Court proceedings, including the Court Clerk's window/office, hallways, buildings and grounds of the Public Safety Building.

4. PROCEEDINGS IN CRIMINAL CASES

4.0 Filing of Motions/Motion Witnesses

An attorney or party filing any motion in a criminal or traffic case other than a motion to reset a matter must attach a memorandum of points and authorities. Points are concise statements of the arguments supporting the motion. Each point shall be followed by citations to relevant authorities in the style recommended by the UTCRs. Argument on any points, authorities, or propositions not attached shall be by permission of the Court. Absence of affidavits, proofs or statements shall be sufficient grounds for denying the motion. Motions are due at least 14 calendar days prior to the date of trial unless good cause exists as to why the motion is submitted to the court less than 14 days.

If the court grants a request to accept a motion less than 14 days prior to trial, parties shall have all motion and trial witnesses available to conduct the motion the week of trial or the morning of trial. A party requesting a trial delay due to a last minute motion filing or witness unavailability shall have a thorough explanation as to why the witness is not available.

For Reset/Reschedule of Hearing Motions, see SR 7.14 and Appendix B for a 1 page abbreviated motion template.

E-mail motions to court to: court@newbergoregon.gov

4.2 Certification of Motion

The signature of counsel is required on a motion and acts as certification that the motion is well founded and not filed for the purpose of delay.

4.4 Discovery

Before any motion to compel production is filed by the defendant or the City Prosecutor in criminal matters, a demand must have been made for the materials. The motion shall include a statement that a demand was made and not complied with in whole or in part.

4.6 Pretrial Conferences

The Court shall schedule a pretrial conference (PTC) in every criminal case that do not resolve at arraignment. The attorney and defendant shall be present in Court at the PTC. It is expected by the Court that prior to the PTC, the parties will have completed any investigations, plea negotiations and exchange of discovery.

4.8 Call Hearings

Cases set for jury trial will have a call hearing on the Tuesday before the trial. The defendant and counsel shall be present unless previously excused by the Court. Attorneys may request to appear at call via phone so long as prior arrangements with the clerk have been made.

4.10 Court Appointed Counsel

Unless the Court otherwise directs, counsel appointed by the court shall be considered discharged of his or her duties upon sentencing or if the defendant fails to appear at any court hearing except for obligation on appeal. Counsel shall provide the Court with fees incurred for attorney time and other indigent defense services at the time of sentencing or at the conclusion of a case in a matter other than sentencing.

5. TRIALS

5.0 Waiver of Jury Trial and Waiver of Counsel

In a criminal matter, the defendant must sign a written waiver of jury trial and/or representation by counsel before commencement of trial. Refusal to sign a waiver of jury trial and/or representation by counsel will be noted.

5.2 Peremptory Challenges

Peremptory challenges shall be exercised in writing upon forms supplied by the Court or through an alternative means with permission of the court. The parties shall alternate in exercising peremptory challenges with the defendant challenging

first in a criminal case. Each party is permitted three peremptory challenges per trial.

5.4 Examination of Witness by More Than One Attorney

Examination of a witness by more than one attorney for each party shall not be permitted unless, for good cause shown, the Court in its discretion waives this rule.

5.6 Opening Statements

In opening statements, attorneys shall limit their remarks to a summary of proposed evidence and shall avoid argument concerning the case or the law.

5.8 Closing Arguments

Attorneys shall direct closing arguments to the evidence and shall not discuss personal opinion or matters not in evidence.

5.10 Explanation of Proceedings to Jurors

In jury cases, after sustaining a dismissal of the case before verdict, the judge, in dismissing the jury, should, without discussion of the facts, briefly explain the procedure and why a judgment of dismissal was necessary.

5.12 Attorneys as Witnesses

If any attorney shall offer themselves as a witness and give evidence on the merits of their client's cause in the trial of any case, they shall not be permitted to argue the case to the court or jury, except upon permission given by the Court.

5.14 Arguments on Motions and Objections During Trial

During the course of a trial, no argument will be allowed on any objection or motion except when the Court indicates that it desires to hear argument.

5.16 Jury Instructions

A list of jury instructions and a list of potential witnesses shall be provided to the Court by each party no later than three business days prior to trial.

If a proposed uniform jury instruction requires alternative/specialized language to be inserted into the instruction, the party requesting the instruction shall file a proposed jury instruction with the proposed inserted language with the court.

Special jury instructions requests shall also be submitted to the court with proposed instruction language. Uniform instructions that do not contain any specialized language simply need to be listed by its uniform instruction number as contained in the most recent version of Oregon's Uniform Jury Instructions.

6. CASE MANAGEMENT AND CALENDARING

6.0 Criminal Matters Have Priority

All criminal matters shall be set for trial and heard and determined at the earliest possible time. Continuance in criminal matters shall be granted only upon a showing of good cause.

6.2 Consolidation of Charges for Trial/Co-Defendants

Multiple charges against a defendant arising from the same episode and the case of multiple defendants stemming from the same episode shall be consolidated for trial unless a motion for segregation has been filed and allowed. Charges from different episodes shall not be consolidated other than on stipulation of the parties.

Co-defendants will be tried jointly unless a party requests severance for good cause. The court will strongly consider a victim's interest in a joint trial.

6.4 Trial Calendar

The Court Clerk shall schedule all trials on the Court calendar. Cases shall be set for trial when defendant enters a "not guilty" plea or when directed by the Municipal Judge. Written notice of the date and time for each trial shall be provided to each attorney and party.

6.6 Jury Trials

Jury trials shall be heard on a trial day with the oldest case scheduled first. This order shall be set at the call hearings. The oldest case will be determined by reference to the date of the initial arraignment. When a defendant is in custody, the case will have scheduling priority. Exceptions can occur on a showing of good cause.

6.8 Time of Jury Trials

Jury trials begin at 9:00 a.m. each trial day. Attorneys for the defendant must advise the Court at call if a jury is to be waived. A jury can only be waived in writing.

6.10 Notice of Representation

Defense counsel must notify the Court and the City Prosecutor of their representation with 2 business days of the establishment of an attorney- client relationship.

6.14 Reset of Criminal Cases

Request for a reset in a criminal case must be made by one of two ways (1) oral motion at the currently scheduled hearing or (2) abbreviated written motion filed with the court. Reset requests may be emailed to: court@newbergoregon.gov

If a jury trial has been scheduled, the motion must be made by the call hearing.

See Appendix B for a Reset Motion Template. The following shall be included in the motion:

- opposing party's position on the request
- a clear, concise basis for the request; and
- inclusion of how many previous reset requests have been granted on the case.

Rescheduling requests made by counsel to move a hearing to an **EARLIER hearing date** may be made by emailed after the following occurs:

1. Defense counsel will consult with the city prosecutor prior to contacting the court to confirm there is a objection or victim notification issues; and
2. Once rescheduled by clerk staff, defense counsel understands they will notify the defendant of the new hearing date; and
3. The request is submitted at least by 12:00 pm the day prior to the requested new hearing date.

6.16 Criminal Arraignment

Waiver of Defendant's Appearance - A criminal arraignment normally occurs with either the attorney or the defendant or both present. **Unrepresented defendants must always appear at arraignment.** If represented by an attorney, defendant does not need to appear at arraignment. No prior approval of the court is necessary.

Waiver of Arraignment (no appearance by counsel or defendant) - Counsel may also waive arraignment entirely so long as the waiver is in writing and submitted to the court at least 12:00p.m. the day before the scheduled arraignment. The request will not be accepted unless it conforms to the content found in the court's **"Waiver of Arraignment" letter template found in Appendix A of this document.** Counsel shall include unavailable dates for the scheduling of the pre-trial conference hearing in the waiver document.

6.18 Reset of Violation Cases

Any reset request in a violation matter, traffic or otherwise, when an attorney represents the defendant must be made by motion supported by affidavit. The affidavit shall set forth specific factual information explaining the request.

In a violation case where the defendant is not represented by an attorney, a reset request shall be made in writing. The writing shall be titled "Motion to Reset." The request must be received by the court at least 2 days prior to the hearing unless it is an arraignment in which case the request shall be submitted by the original arraignment date and time. The request must contain specific factual information supporting the request. For all reset requests other than an arraignment, a copy of the motion must be served on the opposing party. See Appendix C for a Motion to Reset Hearing template (Pro Se Only).

Each party will be permitted one reset request each. The clerk may reschedule a hearing up to 14 days unless it is a trial. The clerk may reset trials up to 30 days.

If the reset request is received less than 2 days before the hearing (not including arraignments), or involves a second or subsequent reset by the same party, a judge shall review the request.

6.20 Modification of Sentence Obligations

Any request to modify a sentence in a criminal case or a violation, must be made in writing and presented to the court in person. For defendants who live out of the area, arrangements may be permitted depending on the current status of the case. Defendants should submit a written letter explaining why a telephonic appearance is requested.

6.22 Exceptions

Exceptions to the above rules on reset requests and requests to modify sentence terms generally will not be allowed. Consideration of special requests shall be solely at the discretion of the judge and any exception granted will be limited to that single request.

6.24 Appearance by Simultaneous Electronic Transmission

A defendant in custody may appear by simultaneous electronic transmission from any correctional facility in Oregon. The appearances may be for arraignment, release, probation violation hearing, contempt, plea and sentencing; or any other matter as set by the Court. Simultaneous electronic transmission also includes telephonic transmissions.

The court may, upon motion by either party, permit a defendant out of custody to appear via simultaneous electronic transmission or phone with prior approval at least 7 days prior to the hearing. The request to appear via electronic transmission shall be made in writing.

APPENDIX OF FORMS

Appendix A: Waiver of Arraignment Template

The Honorable Judge Blake

DATE

Newberg Municipal Court
401 E. Third St.
Newberg, OR 97132

RE: City v. _____

Misdemeanor arraignment set for 07/02/2012 at 1:00 p.m. Citation #:
Arraignment Waiver and Acknowledgement

Dear Judge Blake,

Please accept this notice that The Law Offices of Private Attorney represents Mr. Miles in his misdemeanor case, which is set for arraignment on July 2, 2012. We request that his case be arraigned via this letter.

I certify that I have fully explained all matters set forth herein, and pertaining hereto, to the defendant. I further state to the court that I have explained to the defendant his right to be arraigned in person and his right to have me represent him at arraignment.

I further certify to the court that my client hereby knowingly, voluntarily, and intelligently waives these rights after a full and complete explanation of each and every one of them by me.

On behalf of Mr. Miles: I acknowledge receipt of the charging instrument; elect to proceed as truly named in said charging instrument; waive reading of the instrument and advisement of rights; reserve the right to move against the instrument at a later date; enter a plea of not guilty and would like to schedule the case in the normal course.

I request to set this case for pretrial conference on the morning docket of _____, 2019. I am unavailable on the following dates: _____. A copy of this letter has been forwarded to the Office of the City Prosecutor via US Mail and email.

Please note that Mr. Miles' mailing address is: _____

Please do not hesitate to call me with any questions or concerns.

Best Regards,

APPENDIX B: MOTION TO RESET HEARING (CRIMINAL CASE)

IN THE MUNICIPAL COURT OF THE CITY OF NEWBERG
COUNTY OF YAMHILL, STATE OF OREGON

CITY OF NEWBERG,	)	CASE NO. 7000xxxx
Plaintiff,	)	
	)	
vs.	)	MOTION TO RESET HEARING
	)	WHEN CITY HAS NO
	)	OBJECTION
INSERT NAME OF DEF,	)	
Defendant	)	

COMES NOW, the Defendant, through counsel, in the above entitled matter, hereby moves this court to set-over the pre-trial conference hearing on April 15, 2019 because

(give detailed reason). This is the defendant's first set-over request.

I further certify that I have consulted with opposing counsel who does/does not object to this request and I have served via _____ (method used to serve) an exact copy of this Motion to the State on _____ (date you served).

Respectfully submitted on _____.

_____ Signature Info

ORDER

IT IS HEREBY ordered that Plaintiff's motion is Granted ____ OR Denied _____. Dated the _____ day of _____, 20____.

_____ Municipal Judge

APPENDIX C: MOTION TO RESET HEARING (TRAFFIC AND VIOLATIONS)

**IN THE MUNICIPAL COURT OF THE CITY OF NEWBERG
COUNTY OF YAMHILL, STATE OF OREGON**

CITY OF NEWBERG,
Plaintiff,

vs.

INSERT NAME OF DEF,
Defendant

CASE NO. 7000xxxx

MOTION TO RESET HEARING

COMES NOW, the Defendant, in the above entitled matter, hereby moves this court to set-over the hearing currently scheduled on April 15, 2019 because

(give detailed reason). This is the defendant's first set-over request.

I have served an exact copy of this Motion on _____ (date you served). THIS SENTENCE IS NOT REQUIRED IF YOU ARE REQUESTING TO RESET YOUR ARRAIGNMENT.

Respectfully submitted on _____ (insert date you submit to the court).

Name of Defendant
Address/Phone

ORDER

IT IS HEREBY ordered that Plaintiff's motion is Granted ____ OR Denied ____ . Dated the ____ day of _____, 20__.

Municipal Judge
By Clerk: _____

Officer _____ via mail fax e-mail _____)