

PASCO MUNICIPAL COURT RULES

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Including Amendments Received Through
July 1, 2020

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PMCLR 1.7 Adoption of Local Rules

These rules are adopted pursuant to CrRLJ 1.7.
[Adopted effective September 1, 1996.]

PMCLR 1.8 Title of Rules

These rules may be known and cited as Pasco Municipal Court Local Rules, and shall be referred to as PMCLR.

[Adopted effective September 1, 1996.]

PMCLR 2.0 Effect of Local Rules

The provisions of the Local Rules are supplemental to the Rules for Courts of Limited Jurisdiction, as adopted or hereafter amended by the Supreme Court of the State of Washington, and shall not be construed in conflict with them.

[Adopted effective September 1, 1996.]

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PMCLR 3.1 Right to and Appointment of Counsel and Other Services

(a) **Appointment of Counsel.** (1) Defendants who request appointment of counsel are required to promptly execute a financial disclosure under oath, which shall be filed. All appointments of counsel by reason of indigence, as defined in RCW 10.101.010 (3), are expressly contingent upon indigence and full disclosure of assets. Where assets are discovered or acquired subsequent to appointment of counsel which indicates that defendant can afford counsel, or afford part payment of counsel, fees may be ordered paid, pursuant to RCW 10.101.010 (4).

(2) Upon appointment of counsel for indigent criminal defendants, the Clerk of the Court shall promptly provide counsel with notice of the appointment.

(b) **Appearance, Appointment and Notice to Attorney.**

(1) Attorneys representing defendants in criminal cases, except for appointed attorneys, must promptly serve written notice of their appearance upon the prosecuting attorney and file the same with the Clerk of the Court.

(2) In all criminal and civil traffic infraction cases in which the defendant or respondent appears without counsel, the notice of hearing or case setting that resets the case will be served upon the defendant or respondent by the Clerk of the Court.

(3) In criminal and civil infraction cases where a notice of appearance has been filed by an attorney, unless requested in open court and granted at the time the hearing is being rescheduled, all notices prepared by the Clerk of the Court, requiring the defendant's appearance in court will be served upon the attorney having filed a notice of appearance. In the case where the attorney is appointed in criminal matters, following the appointment of the attorney, unless requested in open court and granted at the time the hearing is rescheduled, all notices prepared by the Clerk of the Court, requiring the defendant's appearance in court will be served upon the attorney having been appointed to such case.

(4) It will be the responsibility of all attorneys, when their client is present, to prepare the notice of hearing or case setting, obtain their client's signature on the notice and provide a copy to their client.

(5) Whenever an attorney appears for a defendant in a criminal case at arraignment, the appearance shall be unconditional. No appearance shall be conditioned on payment of fees or for any reason.

(c) **Withdrawal of Counsel.** A motion to substitute counsel not mandated by the Rules of Professional Conduct which is accompanied by a motion to continue the trial date should only be granted upon the payment of actual terms or costs incurred in the resetting of the trial.

(d) **Services Other Than Counsel.** Pursuant to the authority under CrRLJ 3.1(f), all requests and approval for expert services expenditures are hereby delegated to the City of Pasco Office of Public Defense (OPD). Upon finding that investigative, expert or other services are necessary to an adequate defense and that the defendant is financially unable to obtain them, OPD shall authorize the services. Where services are denied in whole or in part, the defendant may move for de novo review to the Pasco Municipal Court Presiding Judge (Presiding Judge). Should a defendant seek an order sealing the moving papers, the defendant shall present, along with the moving papers, a motion and proposed order sealing the documents to OPD. If the defendant, after being denied a request for expert services, seeks de novo review, OPD shall submit the motion to seal and proposed order with the moving papers regarding request for expert services along with OPD's order on the request for expert services to the Presiding Judge.

[Adopted effective September 1, 1996; amended effective September 17, 2018.]

PMCLR 3.2 Bail

When required to reasonably assure appearance in court for those persons arrested and detained in jail for new offenses, bail shall be set in accordance with a schedule, approved by the presiding judge, and available from the court clerk. Bail shall not be set for accused persons arrested for new offenses involving domestic violence except at the preliminary appearance or arraignment.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 3.3 Time for Trial – Objections To Trial Date

(a) **Objection to Trial Date.** A defendant who objects to the trial date set by the court pursuant to CrRLJ 3.3(f) shall file and serve upon the plaintiff a written motion and shall, within three court days (excluding Saturdays, Sundays or legal holidays) of the filing of the motion, appear in court at the time court is scheduled to commence,

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and advise the judge that the motion has been made. Failure to comply with this rule shall be a waiver of the objection.

(b) **Continuances.** Continuances or other delays of criminal trials shall be granted only upon written motion, and for reasons provided in CrRLJ 3.3. Orders granting continuances or other delays of criminal trials must be in writing.

(c) **Deferred Prosecution.** A petition for Deferred Prosecution under section 10.05 of the Revised Code of Washington shall be filed fourteen (14) days before the date set for trial on forms approved by the Court. The written assessment prepared by an approved treatment facility shall be accompanied by a recommendation from the Probation Office, or such other Court Appointee authorized under Chapter 10.05 of the Revised Code of Washington.

In the event the Court denies the Petition for a Deferred Prosecution, timely filed under this rule, the case shall proceed to trial as previously set.

In the event the Petition for Deferred Prosecution is approved by the Court, the Defendant may be under the supervision of the Probation Department, or Court Appointee pursuant to Section 10.05.170 of the Revised Code of Washington. A defendant who refuses, fails or neglects to comply with an order, or request of the Probation Office or Court Appointee, or the terms of supervision, or conditions of supervision, or conditions of deferred prosecution may have the deferred prosecution revoked.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 3.4 Presence of the Defendant

Defendant shall be present at all proceedings except when expressly waived.

[Adopted effective September 1, 1996.]

PMCLR 4.1 Proceedings Before the Judge – Appearance

Appearance by Defendant's Lawyer. Attorneys retained by defendants must promptly serve written notice of their appearance upon the prosecuting attorney, and file the same with the Clerk. The notice of appearance shall be contained in a separate document. If an appearance has already been filed on behalf of a defendant, a new attorney retained by defendant must promptly serve written notice of substitution of counsel, which includes the signature of the defendant and signed withdrawal of defendant's previous counsel, upon the prosecuting attorney, and file the same with the Clerk.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 4.2 Procedure Upon a Plea of Guilty

Guilty Plea Statement. It shall be the duty of the defense attorney to have a properly completed written statement of the defendant on a guilty plea. Proper forms must be on a form approved by the Court and may be obtained from the Clerk's Office.

[Adopted effective September 1, 1996.]

PMCLR 4.5 Trial Readiness Hearing

(a) **Trial Readiness.** The Court shall schedule a trial readiness hearing in each criminal case which is set for trial.

(b) **Appearance by the attorney and defendant.** Appearance by the attorneys and the defendant is REQUIRED. Appearance by the attorneys who will be trying the case is preferred. For good cause, substitute counsel may attend on behalf of trial counsel so long as counsel is prepared to answer the inquiries of the court. If the Defendant fails to appear without good cause and the court finds no reasonable assurance from counsel that the case will proceed on schedule to jury trial, a jury will not be called in to hear the case as scheduled. The case may be listed as a "call case" on the trial date.

(c) **Inquiry by the Judge.** At the trial readiness hearing, the Judge may inquire as to whether the case is expected to go to trial, whether the defendant expects to waive the jury, the number of witnesses expected to be called, the anticipated length of the trial and any other matter necessary to administer the trial calendar efficiently. Any other anticipated problems should be brought to the court's attention.

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(d) **Continuance of Trial.** Any continuance of the trial date must include a continuance of the trial readiness hearing unless expressly agreed by the Judge.

(e) **Trial Notification Requirements.** All parties shall contact the Clerk's office two (2) days prior to the date set for trial and notify the Clerk whether (i) the case will proceed to trial; (ii) the anticipated length of the trial; (iii) existence of a jury trial waiver, if any; (iv) requirements for interpreters, if any, and (v) if pretrial matters remain for hearing.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 4.7 Discovery

Discretionary Disclosure. Any motion for items and information not covered by Section (a) and (d) of CrRLJ 4.7 shall be accompanied by an affidavit and memoranda setting forth in detail the reasons the requested items and information are material and significant enough to amount to a denial of the right to a fair trial, if not ordered discoverable, so that the Court may have a basis for its ruling.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 6.1.1 Trial by Jury or by the Court

Trial by Jury – Waiver. A defendant charged with a criminal offense punishable by a loss of freedom shall be scheduled for a jury trial, unless specifically waived by the filing of a Jury Trial Waiver at any time prior to trial. Failure of the defendant to file written Notice of Jury Waiver with the Court at least two (2) court days prior to trial shall result in imposition of terms in the amount of \$180.00, absent exigent circumstances.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 7.2 Post-Sentencing Reviews

Except pursuant to a signed, agreed order, judges pro tempore shall not enter orders suspending the balance of sentences previously imposed, nor shall they grant temporary releases from the jail. This rule does not apply to cases in which the judge pro tempore to whom the motion is addressed originally imposed sentence in the case.

[Adopted effective September 1, 1996.]

PMCLR 8.2.1 Motions

(a) **Pretrial Motions.** Pre-trial motions other than motions in limine shall be set forth in writing and served prior to the pre-trial hearing and a memorandum of points and authorities and an affidavit setting forth specifically the facts which counsel expects to elicit at a hearing. These pleadings are to be served on opposing counsel and upon the judge presumed to sit in the court in which the pre-trial hearing was last heard. Based upon the pleadings, the court will decide whether and when a hearing will be set, and will notify counsel.

(b) **Length of Memoranda.** Memoranda relating to motions shall not exceed ten (10) pages. Waiver of page limitations may be granted only upon motion demonstrating good cause which may be heard ex parte.

(c) **Motion Hearing Procedures.** Oral argument on motions shall be limited to ten (10) minutes for each side, exclusive of testimony, unless the assigned Judge determines otherwise, in which case the motion may be placed at the end of the docket.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 8.2.2 Continuances

Requests for continuances to the clerk shall be in writing, and must be served on the prosecutor and filed with a time for trial waiver which shall be for at least the same number of days as the continuance request. Time for trial waivers shall be on the approved speedy trial waiver form. These forms are available from the Court Clerk.

[Adopted effective September 1, 1996; amended effective September 1, 2019.]

PMCLR 8.9 Sanctions

Any violation of these rules, in addition to the court's inherent right to enter or deny such orders as it deems proper, shall subject the offending attorney to such terms as the court may order.

[Adopted effective September 1, 1996.]

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PMCLR 30 Electronic Filing and Service

(a) **Definitions.**

(1) "Digital signature" is defined in RCW 19.34.020. See GR 30 comments for guidance.

(2) "Electronic Filing" is the electronic transmission of information to a court or clerk for case processing.

(3) "Electronic Document" is an electronic version of information traditionally filed in paper form, except for documents filed by facsimile which are addressed in GR 17. An electronic document has the same legal effect as a paper document.

(4) "Electronic Filing Technical Standards" are those standards, not inconsistent with this rule, adopted by the Judicial Information System committee to implement electronic filing. (5) "Filer" is the person whose user ID and password are used to file an electronic document.

(b) **Electronic filing authorization, exception, service, and technology equipment.**

(1) The clerk may accept for filing an electronic document that complies with the Court Rules and the Electronic Filing Technical Standards.

(2) A document that is required by law to be filed in non-electronic media may not be electronically filed. See GR 30 comments for guidance.

(3) **Electronic Transmission from the Court.** The court or clerk may electronically transmit notices, orders, or other documents to all attorneys as authorized under local court rule, or to a party who has filed electronically or has agreed to accept electronic documents from the court, and has provided the clerk the address of the party's electronic mailbox. It is the responsibility of all attorneys and the filing or agreeing party to maintain an electronic mailbox sufficient to receive electronic transmissions of notices, orders, and other documents.

(4) A court may adopt a local rule that mandates electronic filing by attorneys and/or electronic service of documents on attorneys for parties of record, provided that the attorneys are not additionally required to file paper copies except for those documents set forth in (b)(2). Electronic service may be made either through an electronic transmission directly from the court (where available) or by a party's attorney. Absent such a local rule, parties may electronically serve documents on other parties of record only by agreement. The local rule shall not be inconsistent with this Rule and the Electronic Filing Technical Standards, and the local rule shall permit paper filing and/or service upon a showing of good cause. Electronic filing and/or service should not serve as a barrier to access. See GR 30 comments for guidance.

(c) **Time of Filing, Confirmation, and Rejection.**

(1) An electronic document is filed when it is received by the clerk's designated computer during the clerk's business hours; otherwise the document is considered filed at the beginning of the next business day.

(2) The clerk shall issue confirmation to the filing party that an electronic document has been received.

(3) The clerk may reject a document that fails to comply with applicable electronic filing requirements. The clerk must notify the filing party of the rejection and the reason therefor.

(d) **Authentication of Electronic Documents.**

(1) **Procedures (A)** A person filing an electronic document must have received a user ID and password from a government agency or a person delegated by such agency in order to use the applicable electronic filing service. See GR 30 comments for guidance. **(B)** All electronic documents must be filed by using the user ID and password of the filer. **(C)** A filer is responsible for all documents filed with his or her user ID and password. No one shall use the filer's user ID and password without the authorization of the filer. If a system assigning User IDs and Passwords has not been adopted by the Court, the filer shall email their electronic documents to courtclerk@pasco-wa.gov. Documents received at other email addresses will not be considered filed or received.

(2) **Signatures**

(A) Attorney Signatures. An electronic document which requires an attorney's signature may be signed with a digital signature or signed in the following manner:

s/ John Attorney
State Bar Number 12345
ABC Law Firm
123 South Fifth Avenue
Pasco, WA 99301

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Telephone: (509) 123-4567
Fax: (509) 123-4567
E-mail: John.Attorney@lawfirm.com

(B) Non-attorney signatures. An electronic document which requires a non-attorney's signature and is not signed under penalty of perjury may be signed with a digital signature or signed in the following manner:

s/ John Citizen
123 South Fifth Avenue
Pasco, WA 99301
Telephone: (509) 123-4567
Fax: (509) 123-4567
E-mail: John.Citizen@email.com

(C) Non-attorney signatures on documents signed under penalty of perjury. Except as set forth in (d)(2)(D) of this rule, if the original document requires the signature of a non-attorney signed under penalty of perjury, the filer must either: (i) Scan and electronically file the entire document, including the signature page with the signature, and maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter; or (ii) Ensure the electronic document has the digital signature of the signer.

(D) Law enforcement officer signatures on documents signed under penalty of perjury. (i) A citation or notice of infraction initiated by an arresting or citing officer as defined in IRLJ 1.2(j) and in accordance with CrRLJ 2.1 or IRLJ 2.1 and 2.2 is presumed to have been signed when the arresting or citing officer uses his or her user id and password to electronically file the citation or notice of infraction. (ii) Any document initiated by a law enforcement officer is presumed to have been signed when the officer uses his or her user ID and password to electronically submit the document to a court or prosecutor through the Statewide Electronic Collision & Traffic Online Records application, the Justice Information Network Data Exchange, or a local secured system that the presiding judge designates by local rule. Unless otherwise specified, the signature shall be presumed to have been made under penalty of perjury under the laws of the State of Washington and on the date and at the place set forth in the citation.

(E) Multiple signatures. If the original document requires multiple signatures, the filer shall scan and electronically file the entire document, including the signature page with the signatures, unless: (i) The electronic document contains the digital signatures of all signers; or (ii) For a document that is not signed under penalty of perjury, the signatory has the express authority to sign for an attorney or party and represents having that authority in the document. If any of the non-digital signatures are of non-attorneys, the filer shall maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter.

(F) Court Facilitated Electronically Captured Signatures. An electronic document that requires a signature may be signed using electronic signature pad equipment that has been authorized and facilitated by the court. This document may be electronically filed as long as the electronic document contains the electronic captured signature.

(3) An electronic document filed in accordance with this rule shall bind the signer and function as the signer's signature for any purpose, including CR 11. An electronic document shall be deemed the equivalent of an original signed document if the filer has complied with this rule. All electronic documents signed under penalty of perjury must conform to the oath language requirements set forth in RCW 9A.72.085 and GR 13.

(e) Filing fees, electronic filing fees.

(1) The clerk is not required to accept electronic documents that require a fee. If the clerk does accept electronic documents that require a fee, the local courts must develop procedures for fee collection that comply with the payment and reconciliation standards established by the Administrative Office of the Courts and the Washington State Auditor.

(2) Anyone entitled to waiver of non-electronic filing fees will not be charged electronic filing fees. The court or clerk shall establish an application and waiver process consistent with the application and waiver process used with respect to non-electronic filing and filing fees.

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[Adopted effective July 1, 2020.]

LOCAL INFRACTION RULES

LIRLJ 9.1 Scheduling of Contested Hearings for Traffic Infractions

A defendant charged with a traffic infraction who requests a hearing to contest the determination that a traffic infraction occurred may first be scheduled to appear at a prehearing conference. If the defendant fails to appear at the prehearing conference, a default judgment shall be entered. A summary of this rule shall be given or mailed to each defendant scheduled for a prehearing conference.

[Adopted effective September 1, 1996; renumbered from LIRLJ 2.6 and amended effective September 1, 2008.]

LIRLJ 9.2 Procedure for Contested and Mitigation Hearings for Traffic Infractions

(a) **Hearings on Written Statements.**

(i) **Generally.** Mitigation and contested infraction hearings, decided upon written statements which are certified under penalty of perjury, as provided for in IRLJ 2.4(b)(4) and IRLJ 2.6(c), are authorized and adopted by this Court as well as the procedures authorized by IRLJ 3.5. For a statement to be considered the written statement(s) must be received by the Court timely pursuant to written instructions provided to the parties by the Court.

(ii) **Mitigation Hearings by Statements.** Upon a request by the defendant to have a mitigation hearing by statement instead of appearing in person at a scheduled court hearing, the Court will review in chambers the defendant's statement addressing any mitigation factors that the defendant believes might affect the amount of the penalty imposed. Within the statement there will be a promise by the defendant to pay the monetary penalty authorized by law, or at the discretion of the Court, any reduced penalty assessed by the court. The defendant will be advised in writing by the court of the amount of the penalty and the date the penalty is to be paid to the Court. There is no appeal of the decision by the Court as to the monetary amount to be paid by the defendant for a mitigation infraction.

(iii) **Prehearing Conference for Contested Infractions.** Prior to a contested hearing, whether held in person, on the record, or decided by statements alone, the parties will be scheduled for a "pre-hearing conference" authorized by former local court rule IRLJ 2.6, now cited as PMCLR 9.1. At the time of the scheduled pre-hearing conference the parties may exchange certified statements intended to be submitted to the Court for its review in chambers.

(iv) **Decision on Written Statement for Contested Infractions.** The certified statements submitted by both the City and defendant are examined by the Court. The examination will be held in chambers, and it is not governed by the Rules of Evidence. The Court however, shall determine whether or not the plaintiff (City) has proven by a preponderance of all the evidence submitted that the defendant committed the infraction(s).

1. **Disposition.** If the Court determines that the infraction has been committed, then it may assess the penalty authorized by law in accordance with IRLJ 3.3.

2. **Notice to Parties of Decision.** The Court shall notify the parties in writing whether an infraction was found to have been committed or not and what penalty, if any, was imposed.

3. **No Appeal Permitted.** There shall be no appeal from a decision on written statements.

(b) **Court Hearing - Contested Traffic Offenses**

(i) **Procedure for Contested Traffic Offenses.** Court Rule IRLJ 3.3 provides for the procedure when a defendant requests a contested hearing on the record. This procedure is requested by a defendant when he wants to appear in person, in court, or on a scheduled day and time, to present evidence on his behalf. The plaintiff's witnesses as well as the defendant and defendant's witnesses would be placed under oath on the record, and would testify as to the events.

(ii) **Rules of Evidence.** The Rules of Evidence and statutes that relate to evidence in infraction cases shall

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apply to contested court hearings.

(iii) **Officer's Testimony.** With the adoption of the Decision on Written Statement option for contested hearings by local court rule, the certificate of the officer may be used by the Plaintiff instead of the officer appearing in person at the contested court hearing. Should the defendant wish to officer to be present at the hearing then he may subpoena the officer as his witness pursuant to IRLJ 3.1. Each party is responsible for his or her own witness costs which includes the costs for the officer to be appear.

(iv) **Factual Determination at Contested Court Hearing.** The Court shall determine whether the Plaintiff has proven by a preponderance of the evidence that the defendant committed the infraction. If the Court finds the infraction was committed, it shall enter an appropriate order on its records. If the Court finds the infraction not committed, it shall enter an order of dismissal.

(v) **Disposition.** If the infraction is found committed the Judge may assess a monetary penalty against the defendant which may not exceed that provided by law.

(vi) **Appeal.** After a finding of committed at a contested court hearing the defendant may appeal the decision to Superior Court within the rules as provided in IRLJ 5, Appeals, and CRLJ 6. The appellant must comply with any costs for appeal that Superior Court may assess.

[Adopted effective September 1, 2008.]

LIRLJ 9.3. Speed Measuring Device, Design, And Construction Certificate

The Court cites and adopts herein the procedure to permit the Speed Measuring Device Certificate in the form as provided in IRLJ 6.6 in lieu of live testimony by the speed measuring device expert in traffic infraction cases. However, pursuant to IRLJ 6.6 a defendant may request that the SMD expert be present at his contested court hearing instead of the certificate being admitted into evidence. In that case the defendant must follow the procedures set forth in IRLJ 6.6

[Adopted effective September 1, 2008; amended effective September 1, 2019.]