

DES MOINES MUNICIPAL COURT LOCAL RULES
Changes effective September 1, 2023

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DES MOINES MUNICIPAL COURT
LOCAL RULES

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[Adopted effective July 1, 1998; rescinded effective September 1, 2023.]

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[Adopted effective July 1, 1998; rescinded effective September 1, 2023.]

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[Adopted effective September 1, 2004; rescinded effective September 1, 2023.]

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[Adopted effective September 1, 2004; rescinded effective September 1, 2023.]

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[Adopted effective September 1, 2004; amended and renumbered (DMMCLIR 3.5) effective September 1, 2023.]

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[Adopted effective September 1, 2004; rescinded effective September 1, 2023.]

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[Adopted September 1, 2004; rescinded effective September 1, 2023.]

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[Adopted effective July 1, 1998; rescinded effective September 1, 2023.]

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[Adopted effective July 1, 1998; rescinded effective September 1, 2023.]

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[Adopted effective July 1, 1998; amended effective September 1, 2011; rescinded effective September 1, 2023.]

DES MOINES MUNICIPAL COURT
LOCAL GENERAL RULES

DMMCLGR 1.0 ADOPTION OF LOCAL RULES

The Court adopts these local rules pursuant to GR 7.

[Adopted effective September 1, 2023.]

DMMCLGR 2.0 TITLE OF RULES

The rules of general application shall be known and cited as the Des Moines Municipal Court Local General Rules (DMMCLGR).

[Adopted effective September 1, 2023.]

DMMCLGR 4.0 USE OF A COLLECTION AGENCY AND ASSESSMENT AS COURT COST OF AMOUNTS PAID FOR COLLECTION SERVICES

The court shall use the services of a collection agency for the purposes of collecting unpaid and delinquent penalties on infractions, criminal fines, costs, fees, assessments and forfeitures, on the terms and conditions of the contract for collection services between the City of Des Moines and said collection agency, and may be subsequently amended. The collection agency’s fee or charge, as set forth in the contract between the City of Des Moines and the collection agency shall be added by the collection agency as a court cost to the total judgment of the court against each defendant whose account is referred by the court to the collection agency.

[Former DMMCLR 11.0 adopted effective July 1, 1998; amended and renumbered effective September 1, 2023.]

DMMCLGR 6.13 EVIDENCE – COURT’S CUSTODY OF EXHIBITS

In a criminal or civil case, every exhibit in the court’s custody, which is not: reduced to a digital file, and is not contraband and for which ownership is not in dispute, shall be returned to the party who produced that exhibit upon motion of that party and expiration of the appeal period. In the event of a finding of committed in a civil case or guilty in a criminal case. For purposes of this rule, the appeal period shall begin on the day the court enters a committed finding (in a civil case) or the day the court imposes sentence or orders deferral of sentencing (in a criminal case). Exhibits not withdrawn shall be delivered by the court to the Des Moines Police Department for disposition as abandoned property, or if contraband, for destruction. The Court shall not release an exhibit without documenting receipt by the receiving party.

[Former DMMCLR 10.0 adopted effective July 1, 1998; amended and renumbered effective

September 1, 2023.]

DMMCLGR 30 ELECTRONIC FILING AND SERVICE

[Reserved effective September 1, 2023.]

DES MOINES MUNICIPAL COURT **LOCAL CRIMINAL RULES - FULL TEXT**

DMMCLCrR 1.0 ADOPTION OF LOCAL RULES

These rules are adopted pursuant to GR 7 and CrRLJ 1.7.

[Adopted effective September 1, 2023.]

DMMCLCrR 2.0 TITLE OF RULES

These rules may be known and cited as the Des Moines Municipal Court Local Criminal Rules and shall be referred to as DMMCLCrR.

[Adopted effective September 1, 2023.]

DMMCLCrR 3.1 RIGHT TO COUNSEL

- a. Right to Counsel.** The right to counsel shall extend to all criminal proceedings for offenses punishable by loss of liberty.
- b. Appointment of Counsel.** Unless waived, an attorney shall be provided to any person who is financially unable to obtain one without causing substantial hardship to the person or to the person's family. The court, upon motion of a defendant, shall screen said defendant for the purposes of determining whether the defendant is indigent. The court may consider any factors regarding indigence it deems appropriate. The court may require proof of income at its discretion. An attorney shall not be denied to any defendant merely because their friends or relatives have resources adequate to retain a lawyer or because they posted or are capable of posting bond. The ability to pay part of the cost of an attorney shall not preclude assignment. The assignment of an attorney may be conditioned upon partial payment pursuant to an established method of collection.
- c. Waiver of Right to Counsel.** A defendant may waive their right to be represented by an attorney. The court shall require all defendants entering a plea of guilty in the absence of an attorney to complete a Des Moines Municipal Court Waiver of Right to Attorney form. The court shall enter findings regarding whether the defendant made a

knowing and voluntary waiver of an attorney before accepting a guilty plea or setting a case for trial.

[Adopted effective September 1, 2023.]

DMMCLCrR 3.1.1 WITHDRAWAL OF ATTORNEY

Pursuant to CrRLJ 3.1(e), no attorney may withdraw from representation except upon consent of the court for good cause shown and upon substitution of another attorney; or, upon the defendant's knowing and voluntary decision to proceed without an attorney. The motion shall be made in open court with notice to all interested parties. Except in cases where withdrawal is mandated by the Rules of Professional Conduct, the court should not permit withdrawal unless there is simultaneous substitution of a lawyer who is prepared to proceed on the scheduled trial date.

[Adopted effective September 1, 2023.]

DMMCLCrR 3.2 RELEASE OF ACCUSED – BAIL SCHEDULE

The court adopts the following bail schedule pursuant to CrRLJ 3.2:

A defendant who is booked and detained in jail after the initial arrest for a misdemeanor or gross misdemeanor shall be released upon promising to appear in court and posting bail in the amount of \$500 for a misdemeanor and \$1,000 for a gross misdemeanor, except for the following offenses:

- a. Domestic Violence Offenses:** Defendants booked and detained in jail after the initial arrest shall be held in non-bailable status pending hearing the next judicial day following booking for any crime alleging domestic violence under Revised Code of Washington (RCW) 10.99.020 or similar local ordinance.

- b. Driving Under the Influence/Physical Control:** Defendants booked and detained in jail after the initial arrest shall be held in non-bailable status pending hearing the next court day following booking for Driving Under The Influence pursuant to RCW 46.61.502 or Physical Control of a Motor Vehicle While Under The Influence pursuant to RCW 46.61.504.

- c. Other Crimes:** Defendants booked and detained in jail after the initial arrest shall be held in non-bailable status pending hearing the next court day for the following crimes:
 - 1. Strangulation - DMMC 9.68.100
 - 2. Harassment - RCW 9A.46.020
 - 3. Coercion - RCW 9A.36.070
 - 4. Violation of an anti-harassment order - RCW 7.105.445
 - 5. Stalking - RCW 9A.46.110

6. Communicating with a minor for immoral purposes - RCW 9.68A.090
7. Indecent Exposure and/or Public Indecency - RCW 9A.88.010
8. Aiming or Discharge of a Firearm - RCW 9.41.230

[Adopted effective September 1, 2023.]

DMMCLCrR 4.2 FORFEITURE OF BAIL

Upon the non-appearance of a defendant at the time and place scheduled by the court and a warrant of arrest issued, the defendant's bail or bond may be ordered forfeited with or without further proceedings.

[Adopted effective September 1, 2023.]

DMMCLCrR 4.5 PETITION FOR DEFERRED PROSECUTION

A petition for deferred prosecution submitted pursuant to RCW 10.05 must be filed using the deferred prosecution court forms available in OCourt. The petition shall include the appropriate assessment and treatment plan. The petition, order, assessment and treatment plan shall be filed with the court no later than two (2) weeks prior to the hearing at which the case is to be heard to allow adequate time for review by support services and the court.

[Adopted effective September 1, 2023.]

DES MOINES MUNICIPAL COURT **LOCAL INFRACTION RULES - FULL TEXT**

DMMCLIR 1.0 SPEED MEASURING DEVICE: DESIGN AND CONSTRUCTION CERTIFICATION – Rescinded.

[Adopted effective July 1, 1998; rescinded effective September 1, 2023.]

DMMCLIR 1.2 ADOPTION OF LOCAL RULES

These rules are adopted pursuant to GR 7 and IRLJ 1.3.

[Adopted effective September 1, 2023.]

DMMCLIR 1.3 TITLE OF RULES

These rules may be known and cited as the Des Moines Municipal Court Local Infraction Rules and shall be referred to as DMMCLIR.

[Adopted effective September 1, 2023.]

DMMCLIR 2.0 REQUIREMENTS FOR PAYMENT FOLLOWING INFRACTION HEARINGS – Rescinded.

[Adopted effective September 1, 2004; rescinded effective September 1, 2023.]

DMMCLIR 3.0 INFRACTION – PREHEARING CONFERENCE

- a. Contested Hearings – General.** Except as provided in section (b), a person cited with an infraction who requests a contested hearing shall be scheduled for such hearing as provided in IRLJ 2.6(a)(1).
- b. Prehearing Conference Required.** The court shall require a person cited with an infraction who requests a contested hearing to first appear at a prehearing conference under the following circumstances:
 1. the defendant is represented by an attorney;
 2. the defendant or defense counsel requests the presence of the citing officer and/or speed measuring device expert at a contested hearing; or
 3. any other reason the court determines is necessary for the orderly administration of justice.The prehearing conference shall be scheduled in accordance with the provisions of IRLJ 2.6(a)(1)(i) to a calendar where the prosecutor is scheduled to appear.
- c. Waiver of Prehearing Conference.** The requirement that the person appear at the prehearing conference may be waived, in writing, provided the waiver is received by the court before the time set for the prehearing conference. If the defendant fails to timely waive or appear at the prehearing conference, a default judgment shall be entered.
- d. Setting Contested Hearing Following Prehearing Conference.** If an infraction scheduled for prehearing conference is not resolved prior to, or during, the prehearing conference, a contested hearing shall be scheduled for not more than ninety (90) days from the date of the prehearing conference to a calendar where the prosecutor is scheduled to appear. If the prehearing conference is waived, a contested hearing shall be scheduled for not more than ninety (90) days from the date the waiver of the prehearing conference is received by the court to a calendar where the prosecutor is scheduled to appear.
- e. Resetting Contested Hearing.** The court may reset a contested hearing scheduled pursuant to Section (a) of this Rule to a calendar where the prosecutor is scheduled to

appear in the following circumstances:

1. upon filing of a notice of appearance by an attorney;
2. upon filing of a request for the presence of the citing officer and/or a speed measuring device expert;
3. upon the request of either party;
4. upon filing of a motion required by Section (f) of this Rule, or
5. any other reason the court determines is necessary for the orderly judicial administration requires.

f. Motions For Contested Infractions – Written Notice Required. Motions to exclude evidence or dismiss an infraction shall be made in writing and supported by argument and authority. The prosecutor may file a written reply as a matter of right. The motion is waived and shall not be considered by the court unless the motion is filed with the court and served on the prosecutor fourteen (14) days prior to the contested hearing. Timely motions shall be addressed by the court at the time of the contested hearing. For good cause shown, the court may continue a hearing to allow a defense motion not timely filed to be briefed. This section shall not apply to motions to dismiss pursuant to IRLJ 2.2(d) or motions to exclude pursuant to IRLJ 3.1(b).

[Adopted effective July 1, 1998, amended effective September 1, 2023.]

DMMCLIR 3.3 REQUEST FOR SPEED MEASURING DEVICE EXPERT

Any request to produce a speed measuring device expert must be filed in accordance with IRLJ 6.6(b). The request cannot be combined with a notice of appearance or any other pleading. The court may allow the speed measuring device expert to testify from a location other than the courtroom via Zoom or other electronic means acceptable to the court.

[Adopted effective September 1, 2023.]

DMMCLIR 3.5 AUTHORIZING DECISIONS ON WRITTEN STATEMENTS AND TELEPHONIC OR VIDEO CONFERENCE HEARINGS

- a. Adoption of Infraction Rule for Courts of Limited Jurisdiction (IRLJ) 3.5.** Des Moines Municipal Court adopts IRLJ 3.5 governing decisions on written statements and authorizing telephonic or video conference mitigation hearings.
- b. Waiver of In-court Hearing Following Request for Decision on Written Statement.** A defendant who elects to proceed by requesting a decision on written statement shall be deemed to have waived an in-court hearing to contest or mitigate the infraction in person.

- c. **Denial of Request for Deferred Finding.** A petition for deferred finding denied by the court shall be treated as a request for a mitigation hearing on written statement.

[Adopted effective September 1, 2023.]