McCleary Municipal Court
Local Court Rules

Adopted September 3, 1991
Amended September 1, 2001

Table of Rules

Rule

1. Adoption.
2. Reservation of Discretion.
3. Court Sessions.
4. Judge Assignment.
5. Bail Schedule.
6. Arraignment Date.
7. Notice of Appearance, Combining Documents, Demand for BAC Verifier Maintenance Operator and Motions
8. Discovery.
9. Motions and Hearings.
10. Continuances.
11. Jury Instructions.
12. Pleas in Criminal Cases -- Jury Trial Settings
13. Telephonic Communication.
14. Return of Exhibits.
15. Payment of Fines and Penalties.
16. Notice of Appearance in Contested Infraction Case and Scheduling of Pre-Hearing Conference.
17. Use of a Collection Agency and Assessment as Court Cost of Amounts Paid for Collection Services.

RULE 1. ADOPTION

These rules are adopted pursuant to GR7, CrRLJ 1.7 and IRLJ 1.3.

[Adopted September 3, 1991; amended effective September 1, 2001.]

RULE 2. RESERVATION OF DISCRETION

The court reserves the authority to interpret, suspend or modify these rules in individual cases on motion of a party

for good cause shown or on its own motion in the interest of justice or the efficient operation of the court.

[Adopted September 3, 1991.]

RULE 3. COURT SESSIONS

Court sessions shall begin at 9:00 a.m. on the second and fourth Friday of each month in the McCleary City Hall, and at such other times and places as the court may deem necessary for its proper administration.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 4. JUDGE ASSIGNMENT

All cases filed in the court are assigned to the appointed judge of the court.

[Adopted September 3, 1991.]

RULE 5. BAIL SCHEDULE

The court may establish a bail schedule for use by the police. The schedule may designate those criminal charges wherein the defendant will be allowed to forfeit bail in lieu of arraignment. In the absence of a schedule, the defendant's appearance at arraignment shall be mandatory. Bond for release from jail shall be $500.00 in all cases, except those alleging domestic violence for which no bond shall be set.

[Adopted September 3, 1991.]

RULE 6. ARRAIGNMENT DATE

The arresting officer shall set a defendant's arraignment date and time when issuing a citation charging a criminal offense. The date set shall be consistent with a schedule to be provided by the court clerk. All citations shall be filed upon issuance.

[Adopted September 3, 1991.]

RULE 7. NOTICE OF APPEARANCE, COMBINING DOCUMENTS, DEMAND FOR BAC VERIFIER MAINTENANCE OPERATOR AND MOTIONS

(A) Notice of Appearance to City Attorney. Attorneys appearing for a defendant shall provide a copy of the Notice of Appearance to the City Attorney contemporaneously with filing the same with the court.

(B) Combining Documents. A Notice of Appearance and plea of not guilty may be combined in one document.

(C) BAC Verifier Maintenance Operator Demand. Any demand for the appearance of a BAC Verifier maintenance operator shall be by separate document to be filed with the court and served on the City Attorney contemporaneously with filing the same with the court.

(D) Motions. Any motion filed on behalf of any party shall be provided to the attorney representing the opposing party or, if not represented, to the opposing party contemporaneously with filing the same with the court.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 8. DISCOVERY

Discovery demands shall be by a separate document. "Blanket" discovery forms may be used, provided that each item requested shall contain a box or square in the left margin and shall be checked by the demanding party if that item is to be applicable to the particular case. Demands not applicable shall not be checked. Sanctions may be imposed for violation of this rule, including but not limited to the quashing of the entire demand. Failure to provide discovery materials, including bills of particulars if ordered, shall be deemed waived unless the court is notified in writing not less than two weeks prior to the trial.

[Adopted September 3, 1991.]

RULE 9. MOTIONS AND HEARINGS

(A) Pre-trial Hearings. All cases set for a jury or non-jury trial shall be set for a pre-trial hearing prior to the trial date. The City Attorney, the defendant and the defense attorney, if any, shall attend the hearing.

(B) Motions. All motions, including but not limited to amendment to the charges, for continuance and CrRLJ 3.5 hearings shall be heard at the pre-trial hearing. Motions will not be considered at the time of trial unless they could not have been raised at the pre-trial hearing, or the court on its own motion continued a matter to the time of trial.

(C) Subpoenas. A party wishing the attendance of a witness at a hearing shall be responsible for subpoenas of such witnesses, except that the City Attorney shall subpoena necessary witnesses for a CrRLJ 3.5 hearing if the defendant or his attorney has requested in writing such attendance and has given notice for such motion as set forth herein. A party requesting the court to subpoena a witness shall provide the name and address of the witness, a statement of the relevance of the testimony, and payment of $50.00 per requested subpoena to pay for the witness fee and mileage, and costs of service.

(D) Testimonial Hearing Notice. A party bringing a motion which will require testimony, including CrRLJ 3.5 hearings, shall give separate notice of such to the clerk and the opposing party not less than two weeks prior to the hearing. Failure to comply with this rule may result in the striking of the motion, its denial or terms.

(E) Attendance Required. The defendant must attend every scheduled court proceeding. If a defendant fails to attend, a bench warrant may issue for his/her arrest by the judge or court personnel upon direction of the judge and all scheduled court dates may be stricken at the discretion of the court. The court may impose an additional fee for the issuance of any bench warrant for failure to appear. The time period from the hearing missed by a defendant to his/her next appearance in court shall not be included in any time limitation requirements but rather time limits shall begin anew from such next appearance.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 10. CONTINUANCES

(A) Bench Trials--Stipulations. The court will grant a continuance after a bench trial date has been set upon a stipulation of the parties not 1ess than one day prior to the date set.

(B) Bench Trials--Written Motion. All requests for a continuance made five working days or less prior to a bench trial not stipulated to by the opposing party shall be presented by written motion and affidavit after notice to the opposing party. Twenty-four hours prior notice to the opposing party shall meet the requirement of this subsection. The court may grant a continuance on a showing of good cause.

(C) Jury Trials. All requests for a continuance of a jury trial shall be presented by a written motion and affidavit with notice provided to the opposing party. Such motions may be heard at the pre-trial hearing. A continuance will be granted only upon a showing of good cause.

(D) Good Cause. The following shall be deemed good cause:

(1) Illness with such verification as may be required by the court; or,

(2) Unavoidable and/or unforeseen conflicts; or,

(3) Lack of discovery or new evidence requiring investigation.

(E) Imposition of Costs. Payment of costs of the court and the opposing party may be a condition for granting a continuance.

(F) Speedy Trial Waiver. A waiver of the right to a speedy trial may be required as a condition for granting a continuance.

(G) Infraction Hearings. One telephonic request for a continuance may be granted by the clerk. Thereafter such a request must be in writing and approved by the court.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 11. JURY INSTRUCTIONS

(A) When Submitted. Proposed jury instructions shall be submitted when the case is called for trial.

(B) How Submitted. Three sets of instructions shall be submitted on plain 8-1/2 x 11 inch paper. Citations of authority shall not appear on the unnumbered set. One additional set shall be served upon the opposing party.

(C) Pattern Instructions. The court does not maintain pattern instructions. All instructions must be prepared by the offering party.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 12. PLEAS IN CRIMINAL CASES --JURY TRIAL SETTINGS

The court shall be notified of a plea agreement not less than two weeks prior to a jury trial. Failure to comply with this rule may result in the imposition of costs, including but not limited to witness, jury, and service of process fees in addition to any other sentence imposed.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 13. TELEPHONIC COMMUNICATION

All proceedings, except infraction hearings, and criminal changes of plea or trials, may be heard by telephone conference call at the request of either party or the court.

[Adopted September 3, 1991.]

RULE 14. RETURN OF EXHIBITS

Every exhibit shall be returned to the party who produced

it in a case that was not appealed upon written application not earlier than twenty one days after the trial or sentencing, whichever was later. Exhibits not so withdrawn may be destroyed after thirty days or, if contraband, delivered to the police for destruction.

[Adopted September 3. 1991.]

RULE 15. PAYMENT OF FINES AND PENALTIES

(A) Infractions. Infraction penalties shall be paid at the conclusion of any requested hearing, or upon such schedule as may be set by a court approved time payment agreement.

(B) Attorney and Jury Fees--Reimbursement. The court may require partial or full reimbursement to the city for the cost of court appointed counsel and/or jury fees from those defendants the court finds able to pay such.

(C) Conditions of Time Payment. All criminal time payments shall be paid at the rate of $50.00 per month or the total amount due divided by eleven, whichever amount is greater, unless the court approves a different payment schedule.

(D) Community Service. The court may impose community service in lieu of monetary payments in appropriate cases.

(E) Petition to Modify. The defendant may petition the court to modify monetary payments at any time due to his/her changed financial condition.

(F) Revocation of Probation. Probation shall be revoked for willful failure to pay fines, costs or other assessments.

[Adopted September 3. 1991; amended effective September 1, 2001.]

RULE 16. NOTICE OF APPEARANCE IN CONTESTED INFRACTION CASE AND SCHEDULING OF PRE-HEARING CONFERENCE

(A) Notice of Appearance to City Attorney. Attorneys appearing for a defendant in a contested infraction case shall provide a copy of a Notice of Appearance to the City

Attorney contemporaneously with filing the same with the court.

(B) Pre-Hearing Conference Required. All contested infractions wherein an attorney represents the defendant shall be set for a pre-hearing conference prior to the setting of a contested hearing.

[Adopted September 1, 2001]

RULE 17. USE OF A COLLECTION AGENCY AND ASSESSMENT AS COURT COST OF AMOUNTS PAID FOR COLLECITON SERVICES

(A) Contract for Collection. The court may use the services of a collection agency for the purposes of collecting unpaid and delinquent penalties on infractions, criminal fines, costs, assessments and forfeitures, on the terms and conditions of the contract for collection services between the City of McCleary and said collection agency, and as may be subsequently amended.

(B) Collection Agency Fee as Cost. The collection agency’s fee or charge, as set forth in said contract, 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 to the collection agency.

[Adopted September 1, 2001]