

## Bothell Municipal Court Local Court Rules

### BMCLR 1.1 ADOPTION AND SCOPE OF LOCAL RULES

These rules are adopted pursuant to GR 7, CrRLJ 1.7 and IRLJ 1.3 of the Washington Court rules. These rules govern the procedure in the City of Bothell Municipal Court and are supplemental to the rules enacted by the Washington State Supreme Court for Courts of Limited Jurisdiction. The Court may modify or suspend these local Court rules in any given case upon good cause being shown or upon the Court's own motion.

[Adopted effective September 1, 2021]

### BMCLR 1.2 TITLE OF RULES

These rules may be known and cited as the Bothell Municipal Court Local Rules, and shall be referred to as BMCLR.

[Adopted effective September 1, 2021]

### BMCLR 2.1 ELECTRONIC FILING AND SERVICE

- 1) Electronic filing ("eFile") authorization, charges, exceptions, and waiver [option: and non-compliance].
  - a) *Mandatory Electronic Filing.* Effective [60/30 days after go-live], attorneys shall electronically file (eFile) all documents except the initial criminal complaint, citation, or notice of infraction, using the court's designated eFiling service, Odyssey File and Serve, unless this rule provides otherwise. The attorney of record for a defendant in a criminal case, non-attorneys or *pro se* parties are not required to eFile, but are encouraged to do so.
  - b) *eFiling service charges.* An eFiling charge will be assessed each time a group of documents (sometimes referred to as an "envelope") is filed on a case. This eFiling service charge will be waived for (a) persons who are indigent or their attorney of record, (b) government filers, (c) qualified legal services providers, and (d) protection orders or other matters for which filing fees may not be charged by law.
  - c) *Documents That Shall Not Be e-Filed.* The following documents must be filed in paper form rather than e-Filed:
    - i) A document that is required by law to be filed in non-electronic format, for example, original wills, certified records of proceedings for purposes of appeal, negotiable instruments, and documents of foreign governments under official seal;
    - ii) Documents incapable of legible conversion to an electronic format by scanning, imaging, or any other means;

- iii) Documents larger than permitted in the User Agreement.
  - d) *Working Copies.* Persons who eFile documents under this rule are not required to provide duplicate paper copies of those documents as “working copies” for judicial officers. The court may require that a party provide a working copy of documents that are not eFiled.
  - e) *Waiver of the Requirement to eFile for attorneys.*
    - i) If an attorney is unable to eFile documents required by this rule, the attorney may request a waiver from the court. The attorney must make a showing of good cause and explain why paper document(s) must be filed in that particular case. The court will consider each application and provide a written approval or denial to the attorney. Attorneys who receive a waiver shall file a copy of the waiver in each case in which they file documents. Attorneys who receive a waiver shall place the words “Exempt from eFiling per waiver filed on (date)” in the caption of all paper documents filed for the duration of the waiver.
    - ii) Upon a showing of good cause, the court may waive the requirement as to a specific document or documents on a case by case basis.
  - f) *Non-Compliance with this Rule.* If an attorney files a document in paper form and does not have an approved waiver from e-Filing, the court may assess a fee against the attorney for each paper document filed.
- 2) **Electronic Service.** If a party serves another party electronically or via email, that party must likewise accept service from the other parties electronically or via email.

[Adopted effective September 1, 2021]

#### **BMCLR 3.2 RELEASE OF THE ACCUSED**

- 1) **Bail:** Bothell Municipal Court will follow the bail schedule set forth in Washington Court Rule CrRLJ 3.2(o) except where the charges involve domestic violence offenses or charges of DUI (RCW 46.61.5020 or Physical Control (RCW 46.61.504)
- 2) **Domestic Violence Offenses:** A person arrested for a new domestic violence offense shall be held in jail without bail until they have appeared before a judge or judge pro tem, unless bail is set by a judge or judge pro tem electronically at the time of arrest, or at a preliminary appearance, arraignment, or subsequent court appearance or by written court order. “Domestic Violence” includes, but is not limited to, any of the misdemeanor or gross misdemeanor offenses listed in RCW 10.99.020(4), RCW26.50.010(3) or similar municipal

ordinances, when committed by one family or household member against another. "Family or household member" are those persons listed in RCW 10.99.020(7), RCW26.50.010(6) or similar municipal ordinance.

- 3) **DUI or Physical Control**: A person arrested for a new DUI or Physical Control offense shall be held in jail without bail until they have appeared before a judge or judge pro tem, unless set by a judge or judge pro tem electronically at the time of arrest, or at the preliminary appearance, arraignment, or subsequent court appearance or by written court order.
- 4) **WARRANT OF ARREST**: Warrants issued by the Court will specify whether a bond or bail may be posted to secure the release of the defendant.
  - a) A warrant for \$5,000 or less may be quashed administratively by the Clerk of the Court upon the payment of a fifty dollar (\$50) warrant fee. No-bail warrants are not subject to this procedure.
  - b) Regardless of the amount of the warrant, a defendant or defendant's counsel may request a hearing to quash the warrant.
  - c) A written motion to quash any warrant may be made by either party at any time and will be considered without a hearing provided;
    - i) The motion has been served on the opposing party.
    - ii) If the party wishes to have the matter reviewed electronically, the party may file the motion with the court and simultaneously file the motion with the opposing party at the email address of the opposing party. The opposing party will have 24 hours to respond electronically to the court and the moving party. Upon receipt of the response, the moving party may reply electronically by service to the court and the opposing party within 12 hours. Upon receipt of the reply, the Court will render a decision in writing. Nothing herein requires the electronic filing of motion for bail review.

[Adopted effective September 1, 2021]

#### BMCLR 3.4 APPEARANCE OF THE ACCUSED

- 1) Pursuant to CrRLJ 3.4(a), the court finds good cause to require the defendant's in-person appearance for the following necessary hearings:
  - a) Compliance hearings pursuant to RCW 10.21.055 and RCW 9.41.800. The Court finds good cause to require the in-person appearance of all defendants at compliance hearings pursuant to RCW 10.21.055 (alcohol monitoring) and RCW 9.41.801 (weapons surrender). Compliance with these statutes is a condition of release set by the Court and verification of timely compliance with these statutes has public safety implications. Non-compliance may result in review of release conditions. A defendant failing to comply with release conditions is subject to modification of release conditions and revocation of release on personal recognizance. Defendants have a due process right to notice and a hearing before any revision of release conditions. CrRLJ 3.2(j).

- b) Modification of Release Conditions Pursuant to CrRLJ 3.2(j). The Court finds good cause to require the in-person appearance of all defendants for hearings pursuant to CrRLJ 3.2(j) to modify release conditions or revoke release on personal recognizance. A defendant has a due process right to be advised of the allegations of non-compliance with release conditions and to have a hearing regarding those allegations. The Court cannot conduct a hearing pursuant to CrRLJ 3.2(j) in the absence of the defendant.
  - c) Jury Readiness Hearing. The Court finds good cause to require the in-person appearance of all defendants for Jury Readiness in order for the Court to properly manage the jury trial caseload and Jury Readiness calendars.
    - i) Defendants represented by counsel may waive their appearance at Jury Readiness, upon a form approved by the Court, if a continuance of the trial date is requested by either party.
    - ii) Unrepresented defendants must personally appear at Jury Readiness if a continuance of the trial date is requested by either party. A continuance is a critical stage of the proceedings and the defendant has the right to appear. A motion to continue cannot be heard in the absence of an unrepresented defendant.
    - iii) Cases confirmed for the assigned trial date at Jury Readiness require the parties to submit a Jury Readiness Order. The order affirms that discovery has been completed, necessary pre-trial motions have been resolved, witness interviews have been completed and the matter is ready to proceed to trial. The Court cannot properly assess the readiness of the parties to proceed to trial in the defendant's absence. Leaving continuances, dispositions and confirmation of cases to the assigned trial date would unreasonably congest the Jury Readiness calendar, preclude the Court from determining the need for jurors, impede the timely commencement of a trials for that term, and prevent the Court from fulfilling the responsibility to protect the time for trial rights of the parties.
  - d) Sentence Review Hearings. The Court finds good cause to require the in-person appearance of all defendants for Sentence Review Calendars. A defendant has a due process right to be advised of the allegations of non-compliance with probation conditions, to have a hearing regarding the allegation and to require the prosecutor to prove the allegations of non-compliance. The Court cannot conduct a sentence review in the absence of the defendant.
- 2) The defendant's in-person appearance may be waived at the discretion of a judicial officer.

[Adopted effective September 1, 2021]

**BMCLR 3.4.1 VIDEO CONFERENCE PROCEEDINGS (amended)**

- 1) As set forth below, hearings may be held by video conference at which all participants and the Court can simultaneously see, hear, and speak with each other. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the Court. Video conference hearings shall be deemed held in open court and in the defendant's presence for purposes of any statute, court rule or policy. Any party may request an in-person hearing under this section, which may be granted in the Court's discretion.
- 2) Preliminary appearances as defined by CrR 3.2(a) and CrRLJ 3.2.1(d), arraignments as defined by CrR 3.4 and 4.1 and CrRLJ 3.4 and 4.1, bail hearings as defined by CrR 3.2 and CrRLJ 3.2, and trial settings as defined by CrR 3.3 and CrRLJ 3.3(d), may be conducted by video conference at the Court's discretion.
- 3) Other trial court proceedings, including the entry of a Statement of Defendant On Plea of Guilty as defined by CrR 4.2 and CrRLJ 4.2, may be conducted by video conference only by the agreement of the parties, either in writing or on the record, and upon the approval of the Court pursuant to this local court rule.
- 4) The judge, counsel, all parties, and the public must be able to see and hear each other during video proceedings, and may speak as permitted by the Court. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must have unobstructed access to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.
- 5) For purposes of video conference proceedings, the facsimile signatures of the defendant, counsel, interested parties and the Court will be treated as if they were an original signature. This includes all order on Judgment and Sentence, No Contact Orders, Statement of Defendant on Plea of Guilty, and other documents or pleadings as the Court shall determine appropriate or necessary.

[Adopted September 1, 2013; Amended effective September 1, 2021]

**BMCLR 4.1 ARRAIGNMENTS**

- 1) Arraignments shall be in accordance with CrRLJ 3.4 and 4.1.

- 2) A lawyer may, pursuant to CrRLJ 4.1(g), enter an appearance on behalf of a client except that the defendant's presence is mandatory in cases in which the docket or charging document states that one or more of the charges involves: domestic violence, harassment, violation of a no contact, protection, or anti-harassment order, stalking, driving under the influence, physical control, or minor under 21 operating a motor vehicle after consuming alcohol.
- 3) The Clerk of the Court may continue an arraignment at the request of the defendant or counsel for no more than two weeks, except in cases in which the defendant's presence in mandatory as set for the BMCLR 4.1(2).

[Adopted effective September 1, 2021]

#### BMCLR 4.2 PLEAS

Plea forms for out of custody defendants appearing virtually must be submitted to the court at least two business days prior to the plea hearing. This provision may be waived by the court upon showing of exceptional circumstances. This requirement does not apply to in-custody defendants.

[Adopted effective September 1, 2021]

#### BMCLR 4.3 Deferred Prosecution

- 1) Petition for Deferred Prosecution: A petition for deferred prosecution pursuant to RCW 10.05 must be filed with the Court and the prosecuting authority no later than seven (7) days prior to proposed entry, unless good cause exists for the delay.
- 2) An order deferring prosecution will not be granted without written verification that the defendant has actually begun treatment in the program contained in the petition and order for deferred prosecution.
- 3) An order deferring prosecution will not be granted unless the petition, order and treatment plan have been reviewed and approved by the Court's probation officer, no later than seven (7) days prior to the proposed entry, to insure compliance with RCW 10.05.
- 4) An order deferring prosecution must identify the assessment utilized in support of deferred prosecution, and must state the name of the agency providing treatment.
- 5) No changes in treatment, nor changes in treatment provider, shall be permitted without prior written authorization from the Court.

[Adopted effective September 1, 2021]



#### **BMCLR 4.4 CONTINUANCES**

- 1) Continuances will only be granted upon the filing of a written waiver of the defendant's rights under CrRLJ 3.3 that has been signed by the defendant. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the trial contemporaneously or subsequently set by the court.
- 2) The court shall not grant more than two continuances of the Pre-Trial Hearing absent a showing of good cause.

#### **BMCLR 4.5 PRE-TRIAL HEARINGS, MOTIONS HEARINGS AND JURY READINESS HEARINGS**

- 1) Pre-Trial Hearing: Unless the defendant pleads guilty or submits on the record at arraignment, a pre-trial hearing (PTH) shall be held. If the defendant or defendant's counsel appears in-person at arraignment and enters a plea of "Not Guilty," then notice shall be provided by the court at the arraignment to the defendant and/or defendant's counsel of the date and time of the PTH and the trial date. If the defendant or defendant's counsel appears remotely as provided in BMCLR 3.4 or If the defendant's counsel, pursuant to BMCLR 4.1(2), submits a written notice of appearance, waiving arraignment and enters a plea of "Not Guilty" on behalf of the defendant, then the clerk shall issue notice of the date and time of the PTH and trial date to the defendant and defendant's counsel.
- 2) The defendant and all counsel must be present at the PTH. Failure of the defendant to appear at a PTH may result in the issuance of a bench warrant.
  - a) Per CrRLJ 3.4, a defendant is considered "present" by doing any of the following:
    - i) Physically appearing in court
    - ii) Remotely appearing in court
    - iii) Appearing through counsel, who waives defendant's presence:
      - (A) Counsel may present a written waiver limited to the specific hearing date signed by defendant.
      - (B) An attorney appearing on behalf of a defendant shall waive defendant's physical/remote appearance in writing at each hearing. Blanket waivers intended to apply for the duration of the case will not be accepted.

- b) A defendant may appear in any manner describe in CrRLJ 3.4, unless the court has made a finding, for good cause, that counsel may not waive defendant's presence.
  - i) The good cause finding may be made as part of an order on pretrial release pursuant to CrRLJ 3.2.
  - ii) The judge may consider other factors supporting denial of waiver of presence, such as a history of failures to appear at necessary hearings in the instant case or a significant history of failures to appear in court, violation of court orders or repeated failures to be in touch with counsel, resulting in the need to reset the case.
- c) At the PTH, unless the case is continued, resolved, or scheduled for disposition, the parties shall enter a Pre-Trial Order confirming the trial date, setting a Motion Hearing date, if necessary, and establishing a Jury Readiness Hearing (JRH) date.

[Adopted effective September 1, 2021]

#### BMCLR 4.6 PRETRIAL MOTIONS

- 1) Motions to dismiss or suppress physical, oral or identification evidence, other than motions made pursuant to CrRLJ 3.5, shall be in writing supported by legal grounds or authorities, and by an affidavit or document as provided in CrRLJ 3.6 and RCW 9A.72.085 or any law amendatory thereto, setting forth the facts the moving party anticipates will be elicited at a hearing. If there are no disputed facts, the Court shall determine whether an evidentiary hearing is required. If the Court determines no evidentiary hearing is required, the Court shall set forth its reasons for not conducting an evidentiary hearing.
- 2) Pleading required for compliance with this rule shall be submitted in writing and filed by the moving party at least 14 days prior to the pretrial motion hearing with the Court and counsel for the opposing party. Responsive pleadings shall be filed within 10 days from the date of receipt of the motion and supporting pleadings with the moving party and the Court.
- 3) All substantive motions must be confirmed two (2) business days prior to the date of the assigned motion hearing. The defendant, if appearing pro se, or the defendant's attorney, if represented by legal counsel, and the City Prosecutor shall contact the Clerk of the Court between 8:00 a.m. and 4:00 p.m. and confirm the substantive motion is going to proceed. Failure of a party to confirm the substantive motion may cause the case to be stricken from the motion calendar.

Confirmation Clerk's contact information is as follows:



[Adopted effective September 1, 2021]

**BMCLR 4.7 JURY READINESS HEARING (JRH)**

- 1) The defendant and all counsel must be present at the JRH. Failure of the defendant to appear at a JRH may result in the issuance of a bench warrant.
  - a) Jury readiness is a necessary hearing in accordance with CrRLJ 3.4. At this hearing defendant will be present in person or remotely.
    - i) Parties will either confirm for trial or enter an alternative disposition.
    - ii) At the hearing the parties will submit a Jury Readiness Order. The order affirms that discovery has been completed, necessary pre-trial motions have been resolved, witness interviews have been completed and the matter is ready to proceed to trial.
    - iii) A defense attorney may file a written Jury Readiness Order upon affidavit they have had contact with defendant within a week of the hearing. The Jury Readiness Order must be signed by defendant.
  - b) Defendant's Failure to Appear at JRH:
    - i) If a defendant fails to appear at JRH, the court will enter an FTA. A warrant may issue only upon a finding of good cause by the court that a warrant is necessary for public safety or if personal appearance was ordered as a condition of release.
    - ii) The case will remain calendared for the first day of trial and the defendant will still be required to appear in person.
    - iii) The jury will be stricken for the trial and jurors will not be called in.
  - c) If a defendant who failed to appear at JRH appears on the morning of trial, the court will reset the time for trial pursuant to CrRLJ 3.3. The case will be set for a pretrial hearing or jury readiness hearing before the next jury term.
    - i) Defendant will be ordered on the record to appear in person or remotely at the pretrial or jury readiness hearing.

- ii) Defense counsel will be notified of defendant's appearance, if he or she is not present in person or remotely.

d) If a defendant who was calendared for trial fails to appear, a warrant will be issued.

- 2) Exceptions: A motion for an exception to the existing requirements for a defendant's appearance will be decided on a case-by-case basis.

[Adopted effective September 1, 2021]

#### **BMCLR 4.8 JURY CONFIRMATION**

- 1) Confirmation is required for Jury Trial. Two (2) business days prior to the date of the assigned jury trial, the defendant, if appearing pro se, or the defendant's attorney, if represented by legal counsel, and the City Prosecutor shall contact the Clerk of the Court between 8:00 a.m. and 4:00 p.m. and confirm the case is going to proceed to jury trial or that another disposition has been reached. Confirmation at previous status conference or hearing does not satisfy this requirement.

Confirmation Clerk's contact information is as follows:

[municourt@bothellwa.gov](mailto:municourt@bothellwa.gov)

425-487-5587

- 2) Failure of a party to confirm the jury trial or to advise the Clerk of the Court that another disposition has been reached may cause the case to be stricken from the jury trial calendar. Failure of the defendant, if appearing pro se, or the defendant's attorney, if represented by legal counsel, to confirm the jury trial or to advise the Clerk of the Court that another disposition has been reached shall constitute an excluded period of the defendant's time for trial rights pursuant to CrRLJ 3.3(e)(3).
- 3) Failure of the defendant to appear on the jury trial date may result in the issuance of a bench warrant for the defendant's arrest and forfeiture of any posted bail.
- 4) Any case confirmed for jury trial under this section and not proceeding to jury trial shall be subject to such sanctions as deemed appropriate by the trial judge or judge pro tem. Such sanctions may include, but are not limited to, jury costs, witness fees, and terms.

[Amended March 4, 2016, September 1, 2018, Amended effective September 1, 2021]

#### **BMCLR 6.15 JURY INSTRUCTIONS**

Jury instructions shall be provided as follows: The parties shall exchange a full set of cited and numbered proposed instructions prior to trial and file a copy with the court. In

addition, each party shall provide the judge with one set of unnumbered and uncited instructions in the same sequential order as the cited and numbered proposed instructions filed with the court. The unnumbered and uncited instructions may be provided to the judge in Word electronic format in lieu of a hard copy.

[Adopted effective September 1, 2021]

#### **BMCLR 7.2 RECALL OF WARRANTS AND RESETTING OF CASES**

A defendant who is charged with a criminal violation and is in warrant status in the Bothell Municipal Court may address the warrant in the following manner:

Option 1. Turn him/herself into the Snohomish County jail

Option 2. Post full cash bail amount or bond with the Clerk of the Court.

Option 3. Contact his/her attorney to file a motion to quash the warrant. If the defendant is not represented by counsel, he or she may file a written request to recall the warrant with the court. Either way, the request or motion should include an explanation for his/her failure to appear.

Option 4. Personally appear at the Clerk of the Court's office and provide an explanation for his/her failure to appear for court and provide proper documentary support if appropriate and pay an administrative bench warrant fee of \$50.00. The Clerk of the Court shall recall or not process the warrant, and is authorized to issue a new notice of hearing to the defendant. This option is limited to one occasion per case number and only on cases with bail of \$5,000 or less. This option does not apply to charges of DUI, Domestic Violence, or Violation of Court Order.

Option 5. Request the Clerk of the Court place the matter on the next available calendar for the missed hearing. No fee is required to sign-up for and attend this hearing. The court will address the warrant on the record. The court will either recall the warrant or serve it. Additionally, the court may impose a warrant fee if the court determines lack of good cause for the failure to appear and the defendant's ability to pay. If the defendant fails to appear for the hearing, this option will not be available again for the case number in question.

[Adopted effective September 1, 2021]

#### **BMCLR 7.5 EVIDENCE-COURT'S CUSTODY OF EXHIBITS**

In a criminal case every exhibit in the court's custody, which 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 guilty, for purpose of this rule, the appeal period shall begin on the day of sentencing or deferral of sentencing by the court. Exhibits not withdrawn shall be delivered by the court to the Bothell

Police Department for disposition as abandoned property; or if contraband, for destruction. The court shall not release an exhibit without it being receipted for by the receiving person.

[Adopted effective September 1, 2021]

**BMCLR 8.1 APPLICATIONS FOR SEARCH WARRANTS IN ELECTRONIC FORMAT**

Sworn testimony provided by a police officer for a search warrant may be provided to the judge by electronic means by email or other reliable means if the sworn statement is signed under penalty of perjury pursuant to GR30(2)(D)(ii).

[Adopted effective September 1, 2021]

## Bothell Municipal Court Local Infraction Rules

### BMCLIR 1.1 TITLE AND CITATION OF RULES

These rules may be known and cited as the Bothell Municipal Court Local Infraction Rules and shall be referred to as BMCLIR.

[Effective September 1, 2021]

### BMCLIR 1.2 DEFINITIONS --DEFENDANT IN PHOTO ENFORCEMENT CASES

In a photo enforcement case, the court is authorized to amend the identity of the named defendant if that new-named defendant indicates that they were driving the vehicle at the time alleged in the Notice of Infraction.

[Effective September 1, 2021]

### BMCLIR 1.6 MONETARY PENALTY FOR UNSCHEDULED INFRACTIONS

The Administrative Office of the Courts (AOC) has interpreted School Zone Speeding pursuant to RCW 46.61.440 to be an "unscheduled" infraction under IRLJ 6.2 (b). On the assumption that this is a correct interpretation, the Bothell Municipal Court has by this rule established a local rule as permitted by IRLJ 6.2 (b) to make the School Zone Speeding penalties consistent with IRLJ 6.2 (d) and the obvious intent of the legislature in adopting RCW 46.61.440 (3).

Pursuant to IRLJ 6.2 (b) this rule adopts as the penalty for speeding in a school zone the monetary base penalty set in IRLJ 6.2 (d) for the relevant speed, but then doubled pursuant to RCW 46.61.440 (3). The base penalty, together with the statutory assessments may not be waived, reduced or suspended. The court will not consider a request for deferred findings under RCW 46.63.070 (5) in a school zone speeding case.

<u>Penalty schedule</u>		
1-5	mph over limit	\$157.00
6-10	mph over limit	\$177.00
11-15	mph over limit	\$239.00
16-20	mph over limit	\$321.00
21-25	mph over limit	\$423.00
26-30	mph over limit	\$526.00
31-35	mph over limit	\$628.00
Over 35	mph over limit	\$751.00

[Adopted effective September 1, 2021]

## **BMCLIR 2.2 INITIATION OF INFRACTION CASES --PHOTO ENFORCEMENT**

- 1) For a photo enforcement Notice of Infraction, the officer signs the Notice of Infraction when the officer approves the Notice of Infraction and his or her name is affixed to the Notice of Infraction in the computer system provided for that purpose.
- 2) A photo enforcement Notice of Infraction signed by an officer pursuant to BMCLIR 2.2(1) is filed with the court when it is made part of the computer system of the third-party vendor. There is a rebuttable presumption that the date the Notice of Infraction is made part of the computer system of the third-party vendor is the same as the date of issuance of the first Notice of Infraction against the defendant.

[Effective September 1, 2021]

## **BMCLIR 3.1 CONTESTED HEARINGS SUBPOENAS AND WITNESSES DISCOVERY**

- 1) A request by a defendant for the court to authorize a subpoena of a witness must be received by the court at least 14 days before the date of the contested hearing. This includes the police officer whose presence is not required unless subpoenaed. The Court will deny the request for the subpoena or condition the issuance of the subpoena upon a continuance of the hearing date if the request for a subpoena is made less than 14 days prior to the scheduled hearing. It is the responsibility of the party requesting the subpoena to arrange for proper service of the subpoena on the witness.
- 2) A request for discovery must be served, in accordance with IRLJ 3.1(b), on the city prosecuting attorney's office. Service must be made at the office where the prosecutor receives mail for Bothell Municipal Court cases. The defendant must provide proof of such timely service at the time of a motion to dismiss or suppress evidence for failure to provide discovery. Service of a request for discovery on the court will not be considered service upon the prosecuting attorney's office.

[Effective September 1, 2021]

## **BMCLIR 3.2 MOTIONS - CONTESTED INFRACTION HEARINGS**

Motions challenging the authority of the Court, the constitutionality of the Court, the constitutionality of any statute, ordinance or court rule pertaining to an infraction, the authority of the prosecuting attorney prosecuting an infraction, and/or the authority of the law enforcement agency or officer filing an infraction must be made in writing. Such motions, together with citations to authority and argument, must be filed with the Court and served upon the opposing party no later than fourteen days prior to a



contested infraction hearing. Such motions may be decided by the Court with or without oral argument, as the Court may determine.

[Amended September 1, 2021]

**BMCLIR 3.5 DECISION ON WRITTEN STATEMENTS--DISPOSITION BY WRITTEN STATEMENT, E-MAIL STATEMENT, AND BY VIOLATIONS BUREAU**

- 1) **Written Submissions:** Traffic infractions may be heard by the Court on the basis of written documents submitted by the City and a defendant, provided in IRLJ 2.4(b) (4) and IRLJ 2.6. A written statement must be received by the Court no later than 7 days prior to the scheduled date of the contested or mitigation hearing, or the submission will not be considered. Written submissions may be mailed to the court or filed electronically via the Court's website.
  - a) **Generally:** The Court shall examine the citation officer's report and any written documents submitted by the defendant. The examination shall take place within 120 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.
  - b) **Factual Determination:** For purposes of a contested infraction hearing, the Court shall determine whether the City has established, by a preponderance of all submitted evidence, that the defendant committed the infraction.
  - c) **Disposition:** If the Court determines that the infraction has been committed, it may assess a penalty amount, and any appropriate and permitted costs to be paid by the defendant.
  - d) **Notice to Parties:** The Court shall notify the parties in writing, whether an infraction was found to have been committed and what penalty, if any, was imposed.
  - e) **No Appeal Permitted:** There shall be no appeal from a Court determination based upon written statements. (Effective Date: September 1, 2002)
- 2) **Dispositions by Violations Bureau** The defendant may request an in-person contested or mitigation hearing for any offense, but a defendant may agree in writing to waive an in-person hearing and permit the clerk to enter the following dispositions for the following offenses:
  - a) **Proof of Insurance** -If a defendant who is charged with driving a motor vehicle without having proof of valid insurance presents to the clerk satisfactory evidence of valid insurance in effect for the defendant or the vehicle the defendant was

operating at the time the citation was issued, then the charge will be dismissed and \$25.00 in court costs shall be assessed.

- b) Disabled Parking -If a person charged with violation of parking in a disabled space without proper parking placard, license plate or picture identification, presents to the court clerk evidence that the person had in effect at the time of citation the required parking placard, and an identification card bearing picture, name and date of birth of the permit holder as well as the placard's serial number, the infraction shall be dismissed and the court clerk shall be authorized to make appropriate notation of the dismissal in court records.
- c) Expired Vehicle License Tabs -The clerk is authorized to enter a committed finding and judgment in the amounts set forth below if defendant shows proof that the vehicle license tabs for the vehicle in question have been renewed and are current:
  - i) Expired tabs under two months -\$100
  - ii) Expired tabs over two months -\$150

[Amended September 1, 2021]

**BMCLIR 4.2 FAILURE TO PAY OR COMPLETE COMMUNITY RESTITUTION FOR TRAFFIC INFRACTION USE OF COLLECTION AGENCIES**

The Court may use the services of a collection agency for the purposes of collecting unpaid and delinquent penalties on infractions, assessments and forfeitures. The terms and conditions of the contract for collection services shall be between the Bothell Municipal Court, the City, and said collection agency, and may be amended as necessary.

[Adopted effective September 1, 2021]

**BMCLIR 6.8 DEFERRED FINDINGS**

Bothell Municipal Court will grant deferred findings in a traffic infraction case in accordance with RCW 46.63.070. Except for a deferred finding granted pursuant to this rule, no other types of deferred findings or orders will be allowed in any traffic infraction case. No person who has had a deferred finding in another court or participated in the Bothell Youth Traffic Court, within 7 years of the pending infraction, is entitled to another deferred finding or deferral of any kind.

[Adopted effective September 1, 2021]

**BMCLIR 6.9 NOTICE TO PROSECUTOR TO REQUEST SPEED MEASURING DEVICE EXPERT**

- 1) **INTENT:** The court finds that defense failure to notify the prosecuting authority of its intent to request a deferred finding or ask for a continuance at a contested hearing impacts judicial economy and efficiency when the prosecutor has subpoenaed a speed measuring device expert, at defense request. Timely notice by defense that there will be a request for a continuance or a deferred finding will allow the prosecutor to cancel

- the subpoena for the speed measuring device expert. As a result, the speed measuring device expert will not be inconvenienced, nor funds expended where not necessary.
- 2) **NOTICE TO PROSECUTOR OF REQUEST FOR SPEED MEASURING DEVICE EXPERT:** A request to the prosecutor for the presence of a speed measuring device (SMD) expert at a contested hearing must be made in accordance with IRLJ 6.6(b) and served in accordance with IRLJ 3.1(b).
  - 3) **NOTICE TO THE PROSECUTOR OF INTENT TO REQUEST CONTINUANCE OR DEFERRED FINDING AT HEARING:** Once a defendant or defense counsel has requested the prosecutor produce an SMD expert, then the defendant or counsel must notify the prosecutor in writing, no later than five (5) business days prior to the contested hearing(s) for which they intend to request either a continuance or a deferred finding whether at the hearing or by ex parte motion.
  - 4) **CONTENTS OF NOTICE:** The written notice required in section (3) if this rule must be on separate pleading and served on the prosecuting authority in conformance with IRLJ 3.1(b). It must be captioned as follows: NOTICE OF INTENT TO REQUEST CONTINUANCE OR DEFERRED FINDING AT CONTESTED HEARING – SMD CASE. Neither the pleading nor the caption may be combined with any other notice or request in the proceedings.
  - 5) **FAILURE TO PROVIDE NOTICE:** Failure to provide notice as set forth in this rule and in the event the prosecutor has subpoenaed the SMD expert and that expert appears at the hearing, the judge will deny further continuance of the hearing and will not allow a deferred finding, without a showing of good cause.

[Adopted effective September 1, 2021]

#### **BMCLIR 6.10 SPEED MEASURING DEVICE EXPERT – REMOTE TESTIMONY ALLOWED**

The court may allow the speed measuring device expert to testify from a remote location other than the courtroom, via speakerphone or other electronic means acceptable to the court, upon request of either party with written notice to the court and at the discretion of the judge. The party required to produce such evidence shall be responsible for arranging the expert's testimony by telephonic or other electronic means acceptable to the court.

[Adopted effective September 1, 2021]

#### **BMCLIR 6.11 CONTESTED HEARINGS – COSTS AND FEES**

- 1) **Speed Measuring Device Expert:** As provided in RCW 46.63.151, any person who requests production of an electronic speed measuring device expert, and who is thereafter found by the Court to have committed the infraction, shall be required to pay the fee charge by the expert as a cost incurred by that party. A request for the presence of a SMD expert must be submitted, in writing, to the City Prosecutor of the municipality issuing the Notice of Infraction not less than 30-days prior to the scheduled date of the contested hearing. An untimely request for the presence of an SMD expert may be

treated by the Court as a request for a continuance to the next date on which the City Prosecutor has scheduled the appearance of the SMD expert.

- 2) **Costs and Fees for Other Witnesses:** Each party is responsible for cost incurred by that party, including witness fees as set forth in RCW 46.63.151. In cases where a party requests a witness to be subpoenaed the party requesting the witness shall pay the witness fees and mileage expenses due the witness.

[Adopted effective September 1, 2021]