

***RULES OF
THE CITY OF THE DALLES
MUNICIPAL COURT***



REVISED: Friday March 15, 2013

IN THE MUNICIPAL COURT OF THE CITY OF THE DALLES

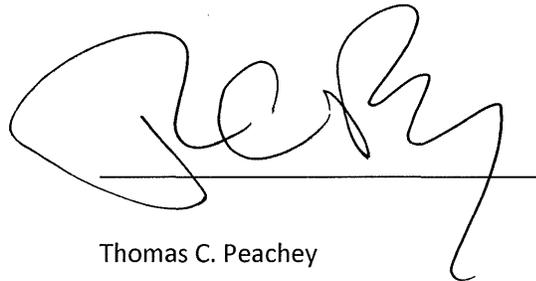
COUNTY OF WASCO, STATE OF OREGON

In the matter of Adoption)
Of Rules of Court) *ORDER*

IT IS HEREBY ORDERED, as follows:

1. The following rules are adopted as the Rules of the City of The Dalles Municipal Court (RTDMC)
2. The rules shall remain in effect until otherwise ordered by the Court.
3. These rules supplement the general orders, policies and procedures adopted by the Court; and
4. These rules shall become effective on the date of this order.

DATED this Friday, March 15, 2013

A handwritten signature in black ink, appearing to read 'T. Peachey', is written over a horizontal line. The signature is stylized and cursive.

Thomas C. Peachey
Presiding Municipal Judge

SECTION 1

GENERAL PROVISIONS

The City of The Dalles Court shall hereafter be known as the Municipal Court of the City of The Dalles, Wasco County, Oregon.

The Court shall be open for the transaction of business at times specified by the City council, in consultation with the City Manager, as recommended by the Court. Currently the Court hours are 8:00 a.m. to 5:00 p.m. Monday – Thursday: 6:30pm to 7:30PM on Tuesday evening and 8:00 a.m. to Noon on Friday.

The Court is located at 313 Court St, The Dalles, Oregon. The mailing address is 313 Court St, The Dalles, Oregon 97058. Phone number is 541-296-5481 extension 1124.

The official website for the City of The Dalles is www.ci.the-dalles.or.us

1. FACILITIES

- Accessible
- Supports efficient operations and technology
- Comfortable, welcoming
- Safe and Secure
- Symbolizes judicial decorum and neutrality

2. COURT SERVICES AND PROGRAMS

The city organization will continue to support justice, rather than revenue generation as the purpose of the court. The court will report routinely on its performance and be held accountable for being an effective and efficient city service.

Court services and programs will be designed to help defendants succeed in meeting their court obligations.

3. HUMAN RESOURCES

Staff will be well trained as court professionals, provide excellent customer service, and demonstrate cultural competence

Court staff will keep abreast of key issues and be on the leading edge of judicial administration.

- Teamwork
- Well trained
- Professional reputation

4. PARTNERSHIPS

The court will work with citizens and community groups to help preserve individual rights, promote public safety, and make the court process more understandable.

The court will work with criminal justice partners and the community to improve quality of life in The Dalles.

- Improve service delivery
- Proactive education
- Assist vulnerable populations

5. TECHNOLOGY

The Court will use technology to improve service to the public and streamline operations.

- Integrated systems to streamline work and share data
- Improved management information
- Reduced use of paper
- Useful website with access to public information

6. COMMUNITY INVOLVEMENT

People will be active in the justice process as citizens, community members, witnesses, jurors, volunteers, and users of justice services. They will understand that there can be no justice without them, and they will value their unique roles in providing justice for all.

- Informed and engaged community
- Community dialogue
- Jurors feel service is worthwhile
- Public trust and confidence in court

7. PUBLIC EDUCATION

The court will seek opportunities to make presentations to groups and provide question/answer public discussions. The court will actively look for new opportunities to be visible in the community as well as to inform and educate the public.

- Informative materials
- Proactive contacts
- Timely and accessible information

8. ACCEPTABLE CONDUCT & BEHAVIOR

- Be polite and courteous to the judge, to court personnel, and to those around you
- Weapons are prohibited in the courtroom except for law enforcement personnel.
- Disruptive behavior such as talking, laughing, shouting or creating other loud disturbances will not be tolerated. Offenders may be removed from the court room, and the judge may hold violators in contempt of court. Mild-toned conversations may be conducted in the lobby outside the courtroom.
- Children may be present in the courtroom; however, if they disturb the proceedings, you may be requested to remove them. The Court does not provide child care services.
- No food, beverages, chewing gum, tobacco, or any smoking are allowed in the courtroom
- Animals, other than service animals established by the ADA, are not allowed in the courtroom or City Hall
- No audio and/or video recording of any kind without the prior authorization of the judge
- Suitable attire is required. Remove hats upon entering the courtroom

The court room is equipped with extremely sensitive microphones and recording devices. Conversations in or around the courtroom may be recorded.

9. COURTROOM ETIQUETTE

- As with any courtroom, certain etiquette is required.
- Please advise the judge or clerk if you have a disability that would make participation in the proceedings difficult.
- Only one person at a time may speak during a court proceeding. Speak clearly and loudly to ensure that the judge hears all of the testimony and evidence presented.
- Generally, you will address the court from a counsel table in front of the judge at the head of the courtroom.

SECTION 2
DECORUM IN PROCEEDINGS

1. FORMAL OPENING OF COURT

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

2. MEDIA COVERAGE OF COURT EVENTS

At The Dalles City Hall public access coverage is allowed outside of the courtroom in the following areas: in the main entryway to the building between the parking area and the front door; inside the building in the main lobby; and in the hallway in front of the courtroom

In The Dalles Municipal Court, approval for media coverage shall be by the Municipal Judge.

3. PRIVATE VIDEO, CAMERA OR RECORDING OF COURT PROCEEDINGS

Video recording, still camera recording, tape recording or any other recording or transmittal of court proceedings by any electronic means by a private party or a party in a case shall only be permitted with prior approval of the judge handling the court proceeding.

4. FLAGS IN COURTROOM

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

5. ATTORNEYS SHALL MAKE THEMSELVES KNOWN TO COURT

Prior to the commencement of any matter attorneys shall state their names, and identify their clients.

6. PROPER USE OF COURT CHAMBERS

Except when Court business is to be conducted and counsel for respective parties are present, counsel, parties and witnesses can congregate in the Court room or lobby unless directed to another room.

7. PEACEFUL FUNCTIONING OF COURT

No person shall in any manner disturb the peaceful and proper functioning of the Court and Court proceedings, including actions committed in the Court Clerk's office, the hallways, buildings and grounds of City Hall, which have the effect of disrupting the court's proceedings.

8. RESPONSIBILITY OF COURT

The Municipal Court is the judicial branch of the City of The Dalles government. It has jurisdiction over all city and state law offenses committed within city limits other than felonies. The city prosecutor has the discretion to refer to the Wasco County District Attorney, certain criminal cases for filing in the Wasco County Circuit Court.

This Court adopts the provisions of the Oregon Rules of Civil Procedure, Uniform Trial Court Rules Chapters 1, 2, 3, 4, 5, 6 and Supplementary Local Rules if applicable to municipal court proceedings, and except as more particularly set forth in these Local Rules.

The Municipal Court Clerk can answer questions about the court schedule, minimum fine amounts, and other administrative matters, but they cannot give legal advice. If you need legal advice, you should consult an attorney. For help in finding one, call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or 1-800-452-7636.

9. RESPONSIBILITY OF JUDGE

The municipal judge is responsible for conducting a fair, impartial and public trial. The case is brought by the City, not the court. Therefore the City has the right to try cases within the jurisdiction of the court.

Per General Ordinance No. 93-1166, a municipal judge may:

- Render judgments and impose sanctions on persons and property
- Issue and compel obedience to subpoenas;
- Compel witnesses to appear and testify before the court
- Penalize contempt of court:
- Issue processes necessary to enforce judgments and orders of the court;
- Issue search warrants and other warrants

ARRAIGNMENT & TRIAL PROCEDURE

1. YOUR RIGHTS

If you have questions about your best course of action, what plea you should enter, your rights, or the consequence of a conviction of the offense for which you are charged, you should contact an attorney. Neither the Court Clerk, Judge nor City Attorney or City Prosecutor is allowed to give you legal advice. You have the right to a trial before the judge, commonly called a bench trial. At trial you have many rights including:

- The right to have notice of the complaint
- The right to hear all testimony introduced against you
- The right to cross-examine witnesses who testify against you
- The right to testify on your own behalf
- The right not to testify. Your refusal to do so may not be held against you in determining your innocence or guilt. However, if you do testify, the city has the opportunity to cross-examine you; and
- You may call witnesses to testify on your behalf at the trial, and have the court issue a subpoena (a court order) to any witnesses to ensure their appearance at the trial. You may also offer documentary evidence such as photographs or diagrams.

2. APPEARANCE FOR VIOLATIONS

In addition to your rights, you also have some legal responsibilities. The law requires you to make an appearance in your case. Your appearance date is noted on your citation. You or your attorney may appear in person in open court, by mail, or you may deliver your plea in person to the court. The options are listed on the back side of your citation.

Your first appearance is to determine your plea. You must be present at the date and time listed on your citation, unless you have made an appearance in writing or by choosing another option on the reverse side of the citation. If your case is called and you do not appear, you may be found guilty by default with fines and fees assessed. You could also face other penalties including a suspended driver license.

If you waive a trial and plead guilty or no contest you may present extenuating circumstances for the judge to consider when setting your fine.

If you plead not guilty, the court will schedule a trial. When you make your appearance by mail, the court must receive your plea before your scheduled appearance date. If you plead not guilty, the court will notify you of the date of your trial. It is imperative that the court have your most recent mailing address on file as the court may send important information to you.

If you plead guilty or no contest, you waive your right to a trial. You must mail or deliver your fine to the court by your appearance date.

3. VIOLATION TRIAL PROCEDURES

You must be present at the time set for your trial. If you are not present when the case is called, the judge may find you guilty, assess a fine, court costs, suspend your driver license and issue an arrest warrant.

The City will present its case first by calling witnesses to testify against you. Generally this is the police officer who issued you the citation.

You then have the right to cross-examine. You may not, however, argue with the witness. Cross-examination must be in the form of questions.

After the City, you may present your case. You have the right to call any witness who knows anything about the incident. The city has the right to cross-examine any witness that you call.

If you so desire, you may testify on your own behalf, but as a defendant, you may not be compelled to testify. It is your choice, and your silence cannot be used against you. If you do testify, the City has the right to cross-examine you.

After all testimony is concluded, both sides can make a closing argument. This is your opportunity to tell the court why you are not guilty of the offense. The City, with the burden of proof, has the right to present the first and last arguments.

In determining the defendant's guilt or innocence, the judge may consider only the testimony of witnesses and any evidence admitted during the trial.

4. TRIAL BY AFFIDAVIT

Contact the Court Clerk, before the time the summons requires you to appear, and determine if you qualify for a trial by affidavit under ORS 153.080. If so the trial will be based upon sworn, written statements and future court appearances may not be necessary. It is possible that you may not qualify for the trial by affidavit. In that case, you must comply with one of the other options.

When pleading NOT GUILTY and choosing option 4 the court allows you to file an affidavit with the courts. In order for the court to accept this affidavit you must follow these instructions on filing the affidavit form.

- 1) You must send a sworn written statement to court, with all pertinent information
- 2) You must then explain the circumstances of your case or basically what you would explain to the judge in court.
- 3) After writing the explanation, you must send the signed letter to the Municipal Court before your court date at 313 Court St., City of The Dalles Courthouse or present it to the Court Clerk at City Hall Municipal Court.
- 4) If the affidavit is not received before your trial date you will be found guilty in your absence. Call the Court Clerk with any questions.

NOTE: If you do not qualify for a Trial by Affidavit we will schedule a trial date for you in the Municipal Court Room at City Hall. If you are unable to appear in person at the scheduled time you may follow the same procedures above, but the officer will be there to give his or her testimony in court without you and the judge will determine the disposition.

5. RESETS OF ARRAIGNMENTS, TRIALS AND HEARINGS FOR VIOLATIONS

ARRAIGNMENTS

Upon request by the defendant in any traffic violation, the court clerk may reset a scheduled arraignment to a date not later than two weeks following the original date on the face of the citation. Any defendant seeking to set over an arraignment more than two weeks following the original date shall post security in the sum of the base fine up to \$250 or 20% of the total base fine stated on the citation, whichever is greater. Amount posted may be applied to fines and costs, if any.

TRIALS

No request by a defendant to reset a violation trial date shall be considered unless the defendant first posts security in the sum of the base fine up to \$250.00 or 20% of the total base fine stated on the citation, whichever is greater.

RESETS

Violation resets will not be granted unless requested at least 5 days prior to trial, and are to be at the sole discretion of the court.

6. ALTERNATIVE DISPOSITION FOR TRAFFIC INFRACTIONS

If you are charged with a minor traffic offense and have an excellent driving record, you may ask the judge to take a driving safety course in exchange for a dismissal,

reduced fine or probation. The request must be made by the appearance date on the citation. It must be made in person, by counsel, or by mail. At the time of the request, you must do the following:

- Plead guilty or no contest
- Pay an administrative fee, if required
- Present proof of financial responsibility (insurance) if requested
- Present a valid Oregon Driver License, if requested
- Have not previously requested and taken a driving safety course for a traffic offense
- Are not currently taking a course for another traffic violation
- Have not been convicted of the same offense

Your driving record will be reviewed prior to the court's decision. If the Judge does grant your request, you must complete the following within the time frame set by the Judge.

- Complete a driving safety course that has been approved by Court
- Provide the court with a certified copy of completion

If you do not take the course in the time required, fail to present the court with any of the required documents, fail to pay any administrative fees assessed or receive a new citation, you must return to court. If you are not present at the scheduled hearing, it will result in a conviction, a fine being assessed, possible additional court fees and other sanctions.

7. VEHICLE COMPLIANCE PROGRAM (FIX-IT TICKET)

As part of the City's focus on making The Dalles a safer community for our citizens and guests, we offer a vehicle compliance program for certain violations. For a list of eligible violations and the procedure, obtain a The Dalles Police Department Vehicle Compliance Brochure.

If you correct the violation, have the correction inspected by a DPSST certified police officer and submit the completed form to the court no later than one business day prior to the time you are scheduled to appear in court, the Judge MAY dismiss your citation. If your citation is dismissed as part of this program, you must pay an administrative fee. See the brochure for more details and restrictions.

8. APPEARANCE FOR CRIMINAL PROCEDURE

- a. You are PRESUMED TO BE INNOCENT until proven guilty beyond a reasonable doubt.
- b. You have the RIGHT TO BE INFORMED OF THE CHARGES against you.
- c. You have the RIGHT TO REMAIN SILENT concerning the charges against you, and anything you say may be held against you.
- d. You have the RIGHT TO RETAIN AN ATTORNEY.

- e. You have the RIGHT TO BE ASSIGNED AN ATTORNEY if the judge determines that you cannot afford an attorney, and there is a likelihood that if you are convicted, you will either go to jail, receive a substantial fine or your driver's license will be suspended.
- f. You have the RIGHT TO REQUEST A REASONABLE POSTPONEMENT so that you may have an opportunity to consult with your attorney and prepare a proper defense.
- g. You have the RIGHT TO TESTIFY OR NOT TO TESTIFY on your behalf.
- h. You have the RIGHT TO CALL OR SUBPOENA WITNESSES to testify on your behalf.
- i. You have the RIGHT TO APPEAL within 30 days of any conviction.
- j. **Court appearances are always required in Criminal Matters.**

9. WAIVER OF JURY AND/OR COUNSEL

In a criminal matter the defendant must sign a written waiver of jury trial and/or representation by counsel before commencement of trial.

10. TRIAL PROCEDURES

a. PEREMPTORY CHALLENGES

Peremptory challenges shall be exercised orally in chambers . The parties shall alternate in exercising peremptory challenges with the defendant challenging first in a criminal case

b. EXAMINATION OF WITNESS BY MORE THAN ONE ATTORNEY

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

c. OPENING STATEMENTS

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

d. CLOSING ARGUMENTS

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

e. EXPLANATION OF PROCEEDINGS TO JURORS

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

f. ATTORNEYS AS WITNESSES

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

g. ARGUMENTS ON MOTIONS AND OBJECTIONS DURING TRIAL

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

h. JURY INSTRUCTIONS

Jury instructions, shall be provided to the Court by each party, at least 24 hrs. prior to trial. Parties shall cooperate and attempt to reach agreement on some or all of their requested instructions.

11. PLEAS

Unless your case is covered by the information later in this page, you may enter one of these three pleas:

PLEA OF NOT GUILTY – A plea of not guilty means that you deny guilt, and require the City to prove the charge. A plea of not guilty does not waive any of your rights. A plea of not guilty does not prevent a plea of guilty or no contest at a later time.

PLEA OF GUILTY – By a plea of guilty, you admit that you committed the alleged violation.

PLEA OF NO CONTEST – A plea of no contest means that while you are not admitting guilt, you do not contest the City's charge against you.

If you plead guilty or no contest, you will be found guilty and should be prepared to pay the fine, court costs, and any restitution ordered by the court. A plea of guilty waives all of the trial rights discussed earlier. You should contact the court regarding how to make payments if you are unable to pay the entire fine and cost.

12. APPEALS

Judgments of the court maybe appealed to the Wasco County Circuit Court. Forms available from Municipal Court Clerk.

APPEALS FROM MUNICIPAL COURT (ORS 221.359)

A person desiring to appeal a conviction (violation/crime) in the Municipal Court may do so, provided the following steps are taken:

Notice of Appeal is filed in writing with the Municipal Court **within 30** days of date of the Judgment you wish to appeal. (Dated-Signed)

File a copy of the Notice of Appeal (with all pertinent info) with the City Attorney's Office at City Hall at the same time filing with the Court. NOTE: Failure to serve the notices may result in dismissal of the appeal.

Filing fees and any bonds or undertakings must be paid to the Wasco County Circuit Court Clerk at 511 Washington St., and a filing fee as set by the Circuit Court and must be paid up front, before they will take the case.

You have the right to be represented by an attorney in the Circuit Court, if it is a Criminal Case and you cannot afford an attorney one can be appointed to you. If the charge is a violation, it would be up to you to hire an attorney. A request for appointed counsel should be made in writing addressed to the Wasco County Circuit Court well in advance of trial.

It is your responsibility to make sure the Wasco County Circuit Court has your correct address, if you have any changes call the Clerk of the Circuit Court at 541-506-2717.

Questions about your appeal may be addressed to:
Wasco County Circuit Court: 541-506-2714
The Dalles Municipal Court: 541-296-5481 x1124

Questions of a legal nature should be asked of an attorney retained to represent you. The Courts do not furnish legal advice to litigants.

13. PROCEEDINGS IN CRIMINAL CASES

FILING OF POINTS AND AUTHORITIES

An attorney or party filing any motion in a criminal or traffic case other than a motion to reset a matter must attach a memorandum of points and authorities. Points are concise statements of the arguments supporting the motion. Each point shall be followed by citations to relevant authorities in the style recommended by the UTCRs.

CERTIFICATION OF MOTION

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

DISCOVERY

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

14. MOTION AND AFFIDAVIT FOR CHANGE OF JUDGE

Motions and affidavits to change assigned Judges, including pro tempore Judges, are waived unless they are filed with the Court Clerk at least 10 days prior to the trial or hearing date. The defendant and the defendant's counsel shall be present in court at the pretrial conference. This motion must be made prior to a judge ruling on a matter in the case.

15. CALL HEARINGS

Cases set for jury trial will have a call hearing at least two (2) weeks prior to trial. The call hearings for jury trials will be set by the court. The defendant and counsel shall be present unless excused by the Court.

16. COURT APPOINTED COUNSEL

Unless the Court otherwise directs, counsel appointed by the court shall be considered discharged of his or her duties upon sentencing. Counsel shall provide the Court with fees incurred for attorney time and other indigent defense services at the time of sentencing or at the conclusion of a case in a matter other than sentencing.

17. FINES, COST AND FEES

THE OREGON LEGISLATURE SETS MAXIMUM AND MINIMUM FINES FOR ALL VIOLATIONS AND CRIMES.

DIVERSIONS:

DUII \$490.

Misdemeanor Diversion \$217.

SECTION 3

CASE MANAGEMENT AND CALENDARING STANDARDS FOR PLEADINGS AND DOCUMENTS

1. ASSIGNING DOCKET NUMBERS

All misdemeanor and code service filings shall be made by the City Attorney's Office and Code Enforcement. Traffic violations, traffic crimes, and parking citations shall be filed by the Police Officer. A case is considered filed in this court when the charging instrument is signed by the City Prosecutor and entered into the court system. All court filings after the original filing shall use the court case number assigned by the court clerk.

2. APPROVAL OF DOCUMENTS

All documents produced by the Court for any appearance in any case, including a judgment in a criminal case, need to be reviewed by parties before they are submitted to the court for review.

3. CRIMINAL MATTERS HAVE PRIORITY

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

4. CONSOLIDATION OF CHARGES FOR TRIAL

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

5. TRIAL CALENDAR

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

6. JURY TRIALS

Jury trials shall be heard on a trial day. Defendants shall be required to appear approximately 2 weeks before trial to confirm scheduling and address pre-trial matters. When a defendant is in custody, the case will be heard within 60 days, unless the defendant executes a Waiver of Speedy Trial.

7. TIME OF JURY TRIALS

Jury trials begin at 8:30 a.m. each trial day. Attorneys for the defendant must advise the Court at call hearings if a jury is to be waived. A jury can only be waived in writing.

8. NOTICE OF REPRESENTATION

Defense counsel must notify the Court and the City Attorney at least 14 days before trial if defendant is going to be represented in a traffic infraction, parking or code violation case. In all other cases defense counsel should notify the court in writing of their representation as soon as possible.

9. RESETS OF CASES IN GENERAL

Request for a reset of any matter at any stage of proceeding must be made in writing. A written request may be delivered, mailed or by fax. A reset request will not be considered by telephone.

10. RESET OF CRIMINAL CASES

A request for a reset in a criminal trial must be made by motion supported by affidavit. The affidavit must set forth specific factual detail supporting the request. A request for a reset of a trial in a criminal case must be made by filing a motion with supporting affidavit at least 7 days prior to the scheduled trial. Exceptions may be made on a showing of good cause.

The reset of non trial matters shall require the consent of opposing counsel and maybe directed orally or in writing to the court clerk.

11. CRIMINAL ARRAIGNMENT

A criminal arraignment shall occur with either the attorney or the defendant or both present and the City Prosecutor. A judgment will not be made without the City Prosecutor or City Attorney present.

12. EXCEPTIONS

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

13. APPEARANCE BY SIMULTANEOUS ELECTRONIC TRANSMISSION

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

14. APPEARANCE BY TELEPHONIC OR VIDEO

A defendant upon request and with the consent of the court, may appear by telephone or computer video (Skype) communication such request shall be made at least 48 hours of a scheduled appearance and defendant shall provide contact information and shall be available for such appearance.