

COURT RULES FOR TRAFFIC AND OTHER VIOLATION TRIALS

Upon entry of a plea of Not Guilty (either in open Court or by mail), the case shall be set for trial as soon as possible.

The trial of any Violation shall be heard by the Court without a jury. The State has the burden of proving an alleged Violation by a preponderance of the evidence. The Defendant is not required to be a witness at the trial.

Continuances: Any request for a continuance of a scheduled trial date must be in writing and must be received by the Court at least 10 days before the trial. Continuances will only be granted upon a showing of good cause. No person should assume a continuance has been granted unless they receive written notification from the Court.

Failures to Appear: Unless appearance by Affidavit is permitted as provided below, if the Defendant fails to appear for a trial:

--If the charge is a traffic violation, bail may be forfeited in an amount equal to the scheduled bail. To the extent that the amount of any posted bail is less than the amount forfeited, the difference shall become a money judgment due and payable within 30 days; if not paid in full within 30 days, an additional assessment of \$50 or \$100 will be imposed. Driving privileges are subject to suspension for failure to appear on a traffic violation and/or failure to pay fines/fees on a traffic violation.

--If the charge is a non-traffic violation, the trial will proceed and a verdict rendered based upon the evidence presented by the State.

Appeals: There can be no appeal from the Judge's decision unless the trial is recorded. A request to have a trial recorded must be in writing, must be accompanied by a \$45 fee, and must be submitted at least 2 days before the trial date.

Appearance by Affidavit: The Court may admit the affidavit of any witness as evidence in lieu of taking the testimony orally in court under the following conditions:

1. Affidavit testimony shall only be allowed if the defendant waives the right to have the testimony presented orally in court.
2. The enclosed "Affidavit and Waiver" form, must be filed with the court clerk at least 10 days before the trial date.
3. The filing by a defendant of an "Affidavit and Waiver" also constitutes Defendant's consent that the State's witnesses may either submit Affidavit testimony or may personally appear and testify at the trial.
4. If both the State and the Defendant appear by Affidavit, the Court will decide the case based only on the Affidavits.
5. Affidavits must be signed and must be either notarized or sworn to before an authorized court clerk.

Nothing in these rules shall alter the right of a defendant to submit an unsworn statement, or to plead Guilty or No Contest along with an explanation, pursuant to ORS Chapter 153.

IT IS HEREBY ORDERED that these rules are effective this date and supercede and replace any previous rules inconsistent herewith.

DATED this 28th day of December, 2009.

Rick J. McCormick, Presiding Judge