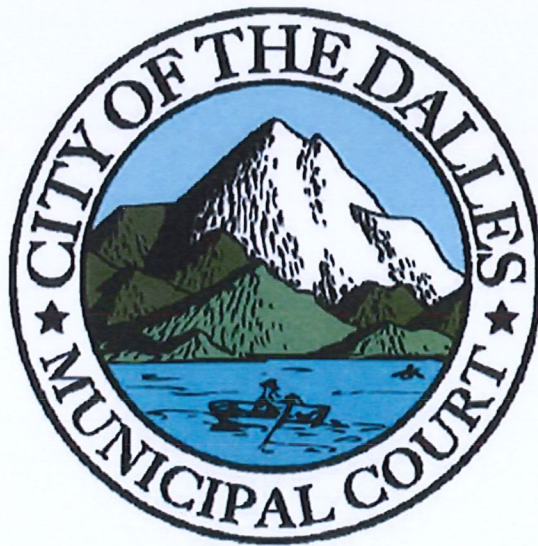


Rules of The City of The Dalles Municipal Court



Revised: January 13, 2020

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

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: January 13, 2020

Jason Corey
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 Manager, in consultation with the Finance Director and Municipal Court Judge. Court sessions are currently scheduled to begin at 8:30 AM Monday, Wednesday and Friday. Questions related to Court business can be directed to the Court Clerk at the City Finance Department or by calling (541) 296-5481, ext. 1124 during regular business hours when the Court is not in session. Court hours may change dependent upon holidays, staff schedules, docket and number of pending cases.

The Court is located at 313 Court Street, The Dalles, Oregon. The mailing address is 313 Court Street, 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 focus upon the following goals:

- 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. ACCEPTABLE CONDUCT AND 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 courtroom, 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 childcare 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.
- Suitable attire is required. Remove hats upon entering the courtroom.
- Turn off or silence cell phones and similar devices.

The municipal court judge is responsible for enforcing these policies and ensuring the public observes them.

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

8. 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 whenever court is in session.

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. Video, still and tape recording or transmittal of the court proceedings shall not interfere with the conducting of court business. If the judge determines that said recording is so interfering, the judge may order it removed.

3. 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.

4. Attorneys Shall Make Themselves Known to Court

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

5. 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 courtroom or lobby unless directed to another room.

6. 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.

7. Responsibility of Court

The Municipal Court is the judicial branch of the City of The Dalles government. It has jurisdiction over all traffic offenses and city ordinance violations committed within city limits.

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 the Local Rules.

The Municipal Court Clerk can answer questions about the court schedule, presumptive 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.

8. 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 Section 23(5) of the City Charter, a municipal judge may:

- Render judgments and impose sanctions of 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

SECTION 3

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 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 make your first appearance by mail, the court must receive your plea before your scheduled appearance date. If not, you may be found guilty by default. 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.

If you plead not guilty, the court will schedule a trial and 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.

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, and/or suspend your driver license.

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. If 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. 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 presumptive fine up to \$250.00 or 20% of the total presumptive fine state 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 presumptive fine up to \$250.00 or 20% of the total presumptive fine stated on the citation, whichever is greater.

Resets

A reset of a violation trial may be granted at the sole discretion of the Court. Violation trial resets will not be granted unless requested at least 5 days prior to trial.

5. Alternative Disposition for Traffic Infractions

In the interest of promoting traffic safety and compliance with state and municipal laws, the Court hereby establishes the Traffic Diversion Program, (hereinafter “diversion”) described here.

Participation in diversion is subject to the following conditions:

1. To be eligible for diversion, a defendant must request in writing to enter a plea of “no contest.” The Court may defer acceptance of the “no contest” plea for 120 days pending completion of all requirements of diversion, as set forth below.
2. Eligibility requirements: Unless otherwise ordered by the Court, eligibility requires that:
 - a) During the five years prior to the date of citation, a defendant has not been convicted of any moving violation and has not participated in any other court-supervised traffic diversion program in any court;
 - b) For purposes of this rule, the term “moving violation” means any violation of vehicle laws, including traffic crimes, that is committed by the driver of a vehicle while the vehicle is in motion. Parking violations, equipment violations or inspection shall be considered “nonmoving” violations; and
 - c) The Court determines that it is in the best interests of the City to allow the diversion.
3. The following defendants are not eligible for diversion programs:
 - a) Any holder of a commercial driver’s license;
 - b) Any juvenile who has been charged with a Class A violation, unless otherwise ordered by the Court;
 - c) Any defendant cited for Unlawful Use of a Mobile Electronic Device (ORS 811.507); and
 - d) Any defendant charged with driving a vehicle at a speed of 100 mph or greater.
4. Traffic Safety Education Classes (“class”):

- a) Diversion participants must complete and pay all fees for a class approved in advance by the Court no later than 90 days after executing a diversion agreement.
 - b) It is the responsibility of each diversion participant to contact the approved class and make arrangements to attend and pay the appropriate fee within the time permitted by the Court.
 - c) Each participant shall be responsible for ensuring that a certificate of completion for the class is filed with the court no later than 90 days after execution of a diversion agreement, with no extensions permitted unless otherwise ordered by the Court based on circumstances outside the participant's control.
5. In addition to any fees required by the class, diversion participants shall pay a nonrefundable diversion fee to the Court as follows:
- Class A violations: \$331
Class B violations: \$200
Class C violations: \$125
Class D violations: \$88
- a) Court fees shall be doubled when posted for work zone violations.
 - b) Full payment of the specified Court fee shall be completed no later than 90 days from the date of execution of the diversion agreement, with no extensions permitted, except as ordered by the Court.
6. As appropriate, the Court may impose additional conditions of diversion, including a requirement that a participant not receive any additional traffic citations resulting in a conviction for a specified period.
7. If a participant fails to complete all requirements of diversion within 90 days, the Court may take on or more of the following steps without further notice:
- a) Enter a finding of "guilty" and forward an abstract of the conviction to Oregon DMV for entry on the defendant's driving record;
 - b) Enter a judgment equal to the full presumptive fine for the class of violation; and/or
 - c) Enforce the judgment by pursuing standard collections practices and remedies, as authorized by Oregon law.

6. Vehicle Compliance Program (Fix-It Ticket)

In the City of The Dalles, the Municipal Court has established the Vehicle Compliance Program. This program offers you the opportunity to correct a vehicle equipment defect, prior to your court date, in exchange for dismissal of the cited violation.

To take advantage of this program, you MUST DO ALL of the following prior to your court date.

Procedure:

1. Repair or correct the violation prior to your court date;
2. Download the "Fix-It" Tickets/Vehicle Compliance Program Form and fill out the "Defendants" section;
3. Bring the vehicle and form to The Dalles Police Department at 401 Court Street, The Dalles for a vehicle inspection. Inspections WILL ONLY be conducted on Monday through Friday (except Holidays) between 9 AM and 4 PM. If the violation has been corrected, a representative of The Dalles Police Department will complete the "Police Office" section of the Form; and
4. Take the completed form along with your citation and a \$35.00 Administrative Fee to the Municipal Court.

Upon completion of all the steps The Dalles Municipal court will dismiss your violation.

You may not complete the "Fix-It Ticket" process more than one time for the same offense. If you are cited for multiple correctable violations at one time, including a repeat offense, you are also disqualified from participating in the "Fix-It Ticket" process.

7. 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.

8. Appeals

Judgments of the Court may be appealed to the Wasco County Circuit Court. Forms are available from Municipal Court Clerk.

Appeals from Municipal Court (ORS 221.359)

A person desiring to appeal a violation conviction 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 Street, and a filing fee as set by the Circuit Court and must be paid up front, before they will take the case.

If the charge is a violation, it would be your responsibility to hire an attorney.

For an appeal of a criminal proceedings, you have the right to be represented by an attorney in the Circuit Court, if you qualify to have the Court appoint an attorney to represent you. The Circuit Court will explain the process of applying for a court appointed attorney when you make your initial appearance in circuit court following the notice of appeal which you filed.

It is your responsibility to make sure the Wasco County Circuit Court has your correct address, if you have any changes call the Circuit Court Clerk 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 ext. 1124

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

9. 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 ten (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.

10. Appearance for Criminal Procedure

You are presumed to be innocent until guilty beyond a reasonable doubt. You have the right to be informed of the charges against you. You have the right to remain silent concerning the charges against you, and anything you say may be held against you. You have the right to retain an attorney. You have the right to be assigned an attorney by the Court if the Court 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. 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. You have the right to testify or not to testify on your own behalf. You have the right to call or subpoena witnesses to testify on your behalf. You have the right to appeal within thirty (30) days of any conviction. Court appearances are always required in criminal matters.

11. Waiver of Jury and/or Counsel

In a criminal matter if a defendant going to proceed without legal representation and without a jury trial, the defendant must sign a written waiver of the right to a jury trial and/or representation by counsel before commencement of the trial.

12. Criminal 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 or she 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 twenty four (24) hours prior to trial. Parties shall cooperate and attempt to reach agreement on some or all of their requested instructions.
- 13. Proceedings in Criminal Cases
 - a. Filing of Points and Authorities

An attorney or party filing any motion in a criminal 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 Uniform Trial Court Rules (UCTR's).
 - b. 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 purpose of delay.
 - c. Discovery

Before any motion to compel production is filed by the defendant or the City Attorney in a criminal matter, a demand must have been made for the materials to the City Prosecutor's Office or Counsel for the 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 ten (10) days prior to the trial or hearing date. The defendant and 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 the 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 for the defendant 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 a statement for 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, Costs and Fees

The Oregon Legislature sets maximum and minimum fines for all violations and crimes. The fee for a DUII diversion is \$490, and the fee for a misdemeanor diversion is \$217.

SECTION 4

CASE MANAGEMENT AND CALENDARING STANDARDS FOR PLEADINGS AND DOCUMENTS

1. Assigning Docket Numbers

All misdemeanor and city ordinance violations shall be prosecuted by the City Prosecutor and Code Enforcement. Traffic violations and parking citations shall be filed by the Police Officer. For a criminal matter, 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 the 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 held on a trial day. Defendants shall be required to appear approximately two (2) weeks before trial to confirm scheduling and address pre-trial matters. When a defendant is in custody, the case will be heard within sixty (60) days, unless the defendant executes a Waiver of Speedy Trial.

7. Time of Jury Trials

Jury trials begin at 8:30 AM 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 Prosecutor 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 seven (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 may be 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 present. 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 Means 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 prior to a scheduled appearance and defendant shall provide contact information and shall be available for such appearance.