

RULES

OF THE

MUNICIPAL COURT

CITY OF PEARLAND

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BE IT KNOWN that on this day, September 1, 2014, the Municipal Court of Pearland, Texas has adopted its **RULES OF COURT**, in order to provide efficiency, uniformity and fairness in conducting the business of this court.

Under the inherent power and duty of all Texas courts as codified in Section 21.001 of the Texas Government Code, the following Local Rules of the Municipal Court of the City of Pearland, Texas (hereinafter “Local Rules”) are promulgated and shall apply and govern any and all proceedings held within any Municipal Court of the City of Pearland, Brazoria County, Texas.

The Local Rules apply to attorneys and their staff members, to each Defendant representing himself/herself (hereinafter “pro se Defendants”), to all court staff, to witnesses, and observers.

A judge may promulgate additional rules for his/her Court which do not conflict with the rules and applicable law. Failure to comply with these rules may result in the imposition of sanctions, including contempt.

These Local Rules are effective September 1, 2014 and supersede all previous Local Rules of the Pearland Municipal Court.

A copy of these Local Rules shall be available in every courtroom and on the City of Pearland website, which can be accessed at www.pearlandtx.gov

Letitia Farnie

Letitia Farnie
Presiding Judge

Court Administrator:
Jennifer Huhn

Updated 2-22-18

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CITY OF PEARLAND
RULES OF THE COURT

RULE ONE: ARRAIGNMENTS / ENTRY OF A PLEA

- 1.1 **Arraignment Settings.**
The court appearance date that appears on a citation or summons is an arraignment setting.
- 1.2 **Arraignment Docket.**
The purpose of the arraignment setting is to determine the defendant's plea to the offense charged and for the Court to apprise defendants of their Constitutional Rights. At the arraignment setting, the defendant may enter a plea of guilty, not guilty, or nolo contendere (no contest). If the plea is guilty or nolo contendere, the defendant will be assessed the usual window fine. If a not guilty plea is entered, the case will be set for a pretrial conference pending a trial at a later date. If the defendant wishes to have a trial by jury, a jury trial request may be made at the arraignment.
- 1.3 **Written plea.**
All pleas shall be in writing, except for pleas entered in open court before a judge. A fine payment shall constitute a plea of nolo contendere as allowed by law.
- 1.4 **Requests for Assistance.**
- a. A request for a language interpreter should be made in writing at the time a plea is entered or at least two weeks prior to trial date.
 - b. Requests for assistance from persons with disabilities should be made at the time the plea is entered.
 - c. Requests for visual or audio aids should be made at least one (1) week prior to trial so that arrangements can be made for the proper equipment to be available.
- 1.5 **Plea by Mail.**
The date of the postmark shall be designated as the date of filing of any plea received by mail.
- 1.6 **Plea by FAX.**
The date of receipt of a FAX by the Clerk's office shall be designated as the date of filing of any plea.

1.7 **Defendant Appearance.**

A defendant who is not represented by an attorney must appear at all court settings of his/her case(s). Individuals who are representing themselves (pro se defendants) should be prepared to present their cases in a proper manner. It is not the Court's duty or responsibility to protect or represent you, or to instruct or educate you on court procedures, evidence, rules or how to present and prove your case.

1.8 **Attorney Appearance.**

An Attorney must make an appearance in a case in writing filed with the Clerk of the Court in which the case is pending, which appearance shall include the Defendant's name, docket numbers for all cases being represented by the attorney, and the attorney's name, bar number, address, email address, fax number, and telephone number.

RULE TWO: COURTROOM DECORUM

2.1 **Order.**

Order shall be maintained at all times. Violation of this rule can result in a reprimand by the judge, expulsion from the courtroom and/or a contempt citation. Attorneys shall observe both the letter and the spirit of all Canons of Ethics and the Texas Disciplinary Rules of Professional Conduct, including those Canons concerning improper ex parte communication with the Judge and those dealing with discussion of cases with representatives of the media. In addition;

- a. Attorneys shall advise their clients and witnesses of all the Local Rules that may be applicable, and shall ensure that their clients and witnesses follow and fully adhere to all such rules.
- b. Pro se Defendants shall conform their behavior to all provisions of the Canons of Ethics applicable to licensed Attorneys. Pro se Defendants shall not attempt to converse with the judge about their cases unless the prosecuting attorney is present.
- c. Unless an attorney is making an objection, only one person may speak at a time.
- d. No one may talk while the judge is talking.
- e. Participants will address others respectfully.
- f. Courtrooms shall not be used as passageways.

- g. No unattended children in the Courtroom. Children under the age of 8 and children 8 and older, who cannot sit alone, cannot be brought to a courtroom without an adult or older responsible child, who can accompany them out of the courtroom, if necessary.
- h. During trial or any hearing, any objections, arguments and comments shall be directed to the Judge and not to opposing counsel or to pro se Defendants. Any objections which have been raised during a hearing or trial shall be supported by a legal basis for such objection.
- i. During trial or any hearing, all participants in the proceedings shall address each other and members of the Jury, if any, without familiarity. The use of first names shall be avoided. While addressing the Court, Attorneys and pro se Defendants shall rise and remain standing at their position at the counsel table unless directed otherwise by the Judge.
- j. During trial or any hearing, Attorneys and pro se Defendants shall not approach the Bench except after requesting and receiving permission from the Judge or as directed by the Judge.

2.2 **Weapons.**

Absolutely no illegal weapons shall be brought into the courtroom, with the exception of those intended to be offered as evidence. Commissioned peace officers may bring weapons into the courtroom. The judge shall have the discretion to have any object removed from the courtroom.

2.3 **Food\Drink.**

In order to maintain cleanliness and decorum in the courtroom, no open containers of food or drink shall be consumed in or brought in to the courtroom, except with permission of the judge.

2.4 **Reading Materials.**

Reading by non-participants shall not be permitted in the courtroom when it causes noise or other distractions to the participants.

2.5 **Seating.**

All persons in the courtroom shall be seated except: when addressing the judge or jury, when a seat is not available, when directed to rise by a court officer, or with permission of the judge.

2.6 **Hats.**

No hats, caps, bandanas, scarves, or any headgear shall be worn in the courtroom, except with permission of the judge or unless such item is of a religious nature or for medical reasons.

2.7 **Electronic Devices.**

All electronic devices must be turned off while in the courtroom, except with permission of the judge. Cellular phones are prohibited in the courtroom. No cellular telephones are to be used in the Courtroom. ALL cell phones must be powered off at all times, except by express permission of the Judge. Electronic tablets or laptop computers may not be used in the Courtroom, except by attorneys, their staff and pro se Defendants while processing a case or docket. Any device which rings or otherwise makes noise may be taken by the bailiff and not returned until the conclusion of the court proceeding.

2.8 **No Inappropriate Attire .**

All persons, whether lawyers, parties, witnesses, jurors or spectators, conducting business, participating in trials, or otherwise attending proceedings in a courtroom of the Municipal Court of the City of Pearland, Texas, shall be dressed appropriately so as to maintain the dignity, integrity, decorum, seriousness and professional atmosphere of the Court and the administration of justice. As such, no inappropriate attire, No Shorts or cut-offs; No low-cut blouses or tops; No Skirts or dresses that are short (less than halfway from knee to top of thigh); No Muscle shirts, shirts with no sleeves, clothing with offensive, vulgar, racist, sexist, obscene, lewd, or suggestive words, slogans, depictions, or pictures; No clothing that is too tight, too short, excessively baggy, or pants worn below the waistline.

2.9 **No Recordings inside the Courtroom**

No one is allowed to record any court proceedings inside the courtroom, without the express permission of the Judge. Broadcast media wishing to film proceedings from outside the Courtroom must position equipment so as not to impede ingress or egress to or from the Courtroom.

RULE THREE: NOTICE

3.1 **Responsibility.**

It is the responsibility of all persons with business before the court, including attorneys, defendants, and bail bondsmen to a) determine the date, time and nature of each setting of case(s): and b) update or notify the court of any change of address or phone number in writing within 5 days of change.

3.2 **Notice.**

Notice of the date, time and nature of each setting shall be given to each party in writing, in person or by mail, to the last known address of a party or counsel. A copy of each notice shall be included in the papers of the case, and marked as to the manner of its delivery.

3.3 **Verbal Representations.**

Reliance upon verbal representation from any court personnel concerning any matter **shall not** be considered grounds for continuance, setting aside of a warrant or any other relief. Reliance upon a police officer's verbal statement(s) regarding disposition of an offense **is not binding** upon the court.

3.4 **Complaint.**

A copy of the complaint will be made available to the defendant or counsel upon request to the clerk of the court.

RULE FOUR: MOTIONS

4.1 **Motions for Continuance**

4.11 **Code.**

Continuances are governed by Chapter 29, Texas Code of Criminal Procedure. These rules augment but do not replace that code.

4.12 **Form.**

A. All motions for continuance shall be in writing (fax acceptable) and shall be filed with the clerk of the court (motions clerk). Such motions shall be filed immediately upon discovering the necessity for a continuance. All motions for continuances should be filed at least ten (10) days prior to the trial date and may be heard at such time as the Court may specify. Any motions for continuance filed less than the ten (10) days may be granted, as deemed necessary by the Court.

B. Each motion shall contain:

- 1) the cause number;
- 2) the name of the defendant;
- 3) the date and time of the setting to be continued;
- 4) the specific facts justifying the continuance;

4.13 **Emergency Motions.**

Motions filed less than two working days prior to the scheduled event will be ruled on at the call of the docket.

4.14 **Factors.**

Except in cases where constitutional or statutory continuances are sought, the following factors will be among those considered in determining a motion for continuance:

A. The specific nature of the conflict (illness, another court schedule including court and case number, out of town, etc.)

B. The time from the date on which the charge was initiated by citation or affidavit.

C. The number of continuances previously granted to each party.

D. The timeliness of the filing of the motion, including the date on which the conflict became known to Movant.

4.15 **Forum.**

In all cases the ruling on a motion for continuance shall be at the discretion of the judge to whom it is presented. A subsequent motion for the same setting shall be presented to the judge who denied the original motion, if practicable.

4.16 **Denied Motion.**

If a motion is denied, in order to avoid an arrest warrant, a bond in the amount set by the Court may be posted.

It is the responsibility of the defendant to determine whether the motion was granted or denied.

4.2 **Motions to Withdraw.**

Any attorney who makes an appearance on behalf of the defendant or represents to the court that he or she is the attorney of record shall remain the attorney of record until a motion to withdraw as counsel or substitute other counsel is granted.

Multiple Attorneys of Record

Letters of representation and notices of appearance that list the names of additional attorneys in a law firm, whether partnership or professional corporation, are all deemed attorneys of record for the case(s) identified in the letter of representation or notice of appearance. A motion to withdraw brought by an attorney of record of a partnership or professional corporation shall not apply to other members of the partnership or

professional corporation unless the individual attorneys are specifically identified in the motion and order to withdraw by name and Texas State Bar Number.

4.21 Without a Hearing.

A motion to withdraw as attorney of record will be granted without a hearing only if the moving attorney:

- A. files a certificate stating the last known mailing address of the Defendant, AND
- B. files a written consent to the withdrawal signed by the client,
- C. or includes in the motion a specific statement: 1) of the circumstances that prevent the moving attorney from obtaining the client's written consent and 2) that the client has been notified of the attorney's intent to withdraw by forwarding a copy of the motion to said client.

4.22 With a Hearing.

If all requirements of Rule 4.21 are not satisfied, a motion to withdraw must be presented at a hearing after notice to the Defendant and to all other parties, as prescribed by Rule Seven: Pre-Trial Settings.

4.23 Substitution.

If a motion to substitute another attorney includes an appearance by another attorney, that appearance will satisfy the requirements of Rule 4.21.

RULE FIVE: UNSCHEDULED APPEARANCES

5.1 Attorneys.

Attorneys seeking to discuss cases with prosecutors should request the prosecutor have the cases brought from Records.

5.2 Files.

Defendants and their attorneys have access to defendant files in the presence of court personnel. Clerks shall not release files to anyone except court personnel. Files shall not be removed from the courtroom except with authorization by the judge.

RULE SIX: ANCILLARY DOCKETS

- 6.1 The Presiding Judge may create Ancillary Dockets at such times and dates as may be deemed necessary.

RULE SEVEN: PRETRIAL SETTINGS

7.1 Motions.

Pretrial Motions shall be filed in writing in all cases where Defendants claim there are legal issues involving the sufficiency of the criminal complaint or the law from which the complaint is drawn. These issues shall include, but not be limited to, any factual situations that would invalidate the premise upon which a law or ordinance has been promulgated.

7.2 Hearings.

No more than one pretrial hearing shall be set per case without leave of the Court. Failure to file pretrial motions as indicated herein shall constitute a waiver of having those issues heard before trial.

7.3 Required Appearance.

All interested parties must be present and in the courtroom at the time the docket is called. Interested parties are defined as:

- A. Defendants.
- B. Defense counsel.
- C. State's counsel.

7.4 Failure to Appear.

If the Defendant fails to appear in person, or through attorney of record, at the time the case is called, the Court may charge the defendant with failure to appear. The Defendant may be required to post a bond to secure a new pretrial setting. Failure to secure a new date will result in a warrant of arrest. Failure to Appear at the time and date on which your case is set shall constitute a Failure to Appear criminal charge to be issued against the defendant and may also be grounds for a contempt of court charge being filed against the attorney as well as referral to the State Bar of Texas for disciplinary proceedings.

Any attorney with a scheduling conflict preventing his or her arrival to the court shall notify the docket clerk of the court the reason(s) for being tardy, specifically where the attorney is and when he/she anticipates being present. Any attorney with prior notice of a conflict shall notify the Court at

least 24 hours before the court setting of the conflict, unless the delay could not be anticipated.

7.5 **Deadline to File.**

Unless leave of Court has been granted, all pretrial motions shall be filed prior to pretrial hearing. Such motions shall be heard no later than three (3) days prior to trial.

7.6 **Service.**

It shall be the responsibility of the party filing any pretrial motion to serve opposing counsel or party with a copy of the motion within three (3) days of the filing of said motion. Service may be made by hand delivery, certified mail, or FAX. The motion shall include a certificate of service as provided by Rule 21a of the Texas Rules of Civil Procedure.

7.7 **Setting the Hearing Date.**

The defendant shall receive the pretrial hearing date at the arraignment hearing or by mail.

7.8 **Subpoena/Evidence.**

The State is responsible for the appearance of all necessary witnesses in response to a defendant's motion to suppress evidence. In all other cases, each party shall be responsible for subpoenaing its own witnesses and physical evidence.

RULE EIGHT: TRIAL SETTINGS

8.1 **Docket Order.**

Subject to the discretion of the Judge calling the docket, the order of cases proceeding to trial (both bench and jury) shall be as follows:

1. Preferential settings.
2. Cases according to age, oldest first.

All cases not reached will be noted as the court's reset, with no penalties assessed against either the defendant or the state.

8.2 **Preferential Setting.**

To receive a preferential setting, subject to the judge's approval, a party must meet one of the following criteria:

- A. Reside more than fifty (50) miles outside of the city.
- B. Have a condition, illness, or injury that would necessitate an expedited disposition of the case.
- C. Have a non-defendant witness who has appeared on at least two prior trial settings without their case having been reached.

8.3 **Required Appearance.**

All interested parties must be present and in the courtroom at the time the docket is called. Interested parties are defined as:

- A. Defendants.
- B. Defense counsel.
- C. State's counsel.

8.4 **Failure to Appear.**

If the Defendant fails to appear in person and announce ready for trial at the time the case is called for trial without showing good cause, the Court may find the defendant in contempt issue a warrant for the defendant's arrest and may require that the defendant post a bond.

If state's witness is not present, state shall show good cause for witness's absence, or proceed to trial.

8.5 **Record of the Proceedings.**

A. **Request and Availability.** A defendant may request a court recording at the initial announcement of the case in writing prior to commencement of trial. If no request for recording is made it constitutes a waiver of record.

Purpose. Pearland Municipal Court is a court of record. It is the court's function to record the entire trial proceeding. In order to appeal a finding of guilt to County Court, a defendant should have a written record of the trial proceeding sent to the appellate court.

8.6 **Visual/Audio Aids.**

- A. A defendant who wishes to use visual or audio aids in their defense must notify the court at least one (1) week prior to trial so that arrangements can be made for the proper equipment to be available.
- B. The sitting judge shall make the final decision on what audio or video recordings, if any, are to be admitted into evidence.

8.7 **Media Access.**

As a general rule, broadcast media will not be allowed to record any court proceeding. Any exceptions may be made by the judge presiding in each particular case.

RULE NINE: POST TRIAL

9.1 **Code.**

Motions for new trials and appeals are governed by the Texas Government Code, Section 30.00014, et seq. An appeal bond is required to perfect an appeal from the Municipal Court. All appeal bonds require the signature and address of the defendant. An appeal bond must be approved by the Court and must be filed not later than the tenth (10th) day after the date on which the motion for new trial is overruled. Appeal bonds shall comply with Chapter 45 of the Texas Code of Criminal Procedure.

9.2 **Indigence.**

If a defendant is indigent or otherwise too poor to pay either the appeal bond or the transcript, she\he may file an Affidavit of Indigency with the court and a Motion to Waive Costs within the ten (10) day period to file an appeal bond. A hearing on the motion to waive costs shall then be scheduled by the court.

9.3 **Inability to Pay Fine.**

If a defendant does not appeal the court's decision, but is unable to pay the fine when due, the defendant may contact the court to discuss alternative methods of payment.

9.4 **Warrant.**

If a defendant does not pay the fine, meet all obligations of a payment plan, or discharge the fine by performing all services as ordered by the court, a warrant will be issued which will subject the defendant to arrest.

RULE TEN: JUVENILES

10.1 Accompanied by Parent.

A person who is considered a juvenile (10-16 years of age), and is charged as a juvenile with an offense within the jurisdiction of the Municipal Court, must be accompanied by a parent or legal guardian at all appearances. No action will be taken unless the juvenile is so accompanied by such parent or legal guardian. However, the Court may hear the case if satisfied that due diligence has been used to obtain the presence of the parent or legal guardian.

10.2 Alcohol Related Offense.

A minor (under 21 years of age) charged with an alcohol related offense under Chapter 106 of the Alcoholic Beverage Code must be present in open court before a judge to enter a plea of guilty or no contest. Furthermore, no person under 17 years of age may be convicted of an alcohol-related offense without the parent or legal guardian present. However, the court may hear the case if satisfied that due diligence has been used to obtain the presence of the parent or legal guardian.

RULE ELEVEN: SUBSTITUTE JUDGES

11.1 Substitute Judges.

The Part-time Judges of the Municipal Court, when sitting, have the same powers as other Municipal Courts judges, including the powers and duties of a magistrate. They shall serve in such courts and at such times as prescribed by the Presiding Judge.

Severability

If any provision of these Rules or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or application of these Rules, which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of the Rules are severable.