

# LOCAL RULES FOR THE MUNICIPAL COURT CITY OF WAXAHACHIE, TEXAS

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## **RULE ONE: AUTHORITY**

### **1.1 Authority for Rules**

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 Waxahachie, Texas (hereinafter "Local Rules") are promulgated and shall apply and govern any and all proceedings held within the Municipal Court of the City of Waxahachie, Ellis County, Texas. These rules are adopted for the purpose of securing uniformity in those proceedings and in order to promote justice.

### **1.2 Application**

The Local Rules apply to attorneys and their staff members, each Defendant representing himself/herself (hereinafter "pro se Defendants"), the City's prosecutor, all court staff, witnesses and observers. The judge may promulgate additional rules for the 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.

### **1.3 Effective Date**

These Local Rules are effective on May 18, 2016 and supersede all previous Local Rules of the Waxahachie Municipal Court.

### **1.4 Availability**

A copy of these Local Rules shall be available in the courtroom of the Waxahachie Municipal Court and on the City of Waxahachie website, which can be accessed at [www.waxahachie.com](http://www.waxahachie.com).

### **1.5 Citation Form**

These Local Rules shall be known as the Local Rules of the Municipal Court of the City of Waxahachie, Texas and each rule may be cited as "Waxahachie Local Rule \_\_\_\_" or "WLR \_\_\_\_".

## **RULE TWO: COURTROOM DECORUM**

### **2.1 Formal Opening**

Each session of the Court shall be brought to order by formal announcement by the Bailiff of the Court, requiring all present in the Courtroom to rise as the Judge takes the Bench. The Bailiff shall remain in or around the Courtroom at all times while the Court is in session.

### **2.2 Conduct Required of All Persons Attending Court**

Court is in session whenever the Judge is on the Bench. While the Court is in session, unless the Judge directs otherwise the following conduct must be observed:

- a) No smoking or use of tobacco products, including snuff or chewing tobacco.
- b) No propping feet or sitting on tables, railings or the backs of benches or chairs.
- c) No loud noises. Any children brought into the Courtroom must be quiet or they must be removed from the Courtroom.
- d) No eating, drinking or gum chewing.
- e) No standing in the Courtroom, except when addressing the Court or by direction of the Judge or when necessitated by the business of the Court.
- f) No gestures, facial expressions or sounds indicating approval or disapproval of a ruling by the Court or a comment on testimony of a witness.
- g) 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 Waxahachie, 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, including short shorts, tank tops, sleeveless shirts, jeans with holes or cut-outs, low pants with underwear showing or inappropriate "message" shirts, or sunglasses shall be allowed. No hats or head coverings including scarves, bandanas or do-rags shall be worn in the Courtroom, unless such item is of a religious nature or for medical reasons.
- h) No unattended children in the Courtroom.
- i) 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 staffs 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.
- j) Absolutely no weapons shall be brought into the courtroom, with the exception of those intended to be offered as evidence. Commissioned peace officers may bring weapons in the courtroom. The Judge shall have the discretion to have any object removed from the courtroom.

### **2.3 Conduct Required of all Attorneys and Pro Se Defendants**

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 Local Rules that may be applicable, and shall ensure that clients and witnesses follow and fully adhere to all such rules.

b) Pro se Defendants (Defendants acting as their own attorney) shall conform their behavior to all provisions of the Canons of Ethics applicable to a licensed Attorney. Pro se Defendants shall not attempt to converse with the judge about their cases unless the prosecuting attorney is present.

c) Attorneys and pro se Defendants shall be dressed appropriately while in Court. See Rule 2.2 (g) above.

d) All parties shall be prompt in arriving for Court and attending to Court business. Attorneys, Defendants represented by Attorneys and pro se Defendants shall be on time and if the Attorney is required to be in another Court, he/she shall notify the Clerk of the Court in which he/she anticipates being tardy specifying where the attorney is and when he/she anticipates being present. Any attorney with such a conflict shall notify the Court at least 24 hours before the court setting, unless the delay could not be anticipated.

e) Failure of an attorney representing a Defendant to appear as scheduled may result in a warrant being issued for the Defendant. Failure of a pro se Defendant to appear as scheduled may result in a warrant being issued for the Defendant. An Attorney who fails to appear timely may be subject to sanctions, up to and including contempt.

f) 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.

g) 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.

h) 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.

## **2.4 Courtroom Recordings**

No one is allowed to record any court proceedings inside the courtroom. Any exception may be made by the Judge presiding in each particular case. 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: APPEARANCE, BONDS AND PLEAS**

### **3.1 Appearance**

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

### **3.2 Information on Dispositions Given Only to Attorney or Record**

The Clerk of the Court shall release information on cases only to the attorney of record, or the person or entity who posted bond for a Defendant. It is the responsibility of the attorney of record to advise his/her client of the terms of judgment entered against the client as a result of the plea agreement.

### **3.3 Bond Required**

For any case with an active alias warrant or, if no warrant has been issued, on any case more than 60 days past the date of the issuance of the citation, a cash, surety, or attorney bond shall be required before further action can be taken in the case. No bond is required if the Defendant or his/her attorney pleads guilty or no contest.

### **3.4 Plea by Defendant**

A plea of not guilty, guilty or no contest must be filed with the Clerk of the Court within the time period provided on the citation. All pleas not entered in open court must be in writing.

Payment in full of the fine on a case pending in the Waxahachie Municipal Court shall constitute a guilty/no contest plea and waiver of jury trial, without regard to a written plea.

No partial payments shall be accepted without a plea of guilty/no contest from the Defendant.

A timely plea of not guilty by a pro se Defendant will result in a pre-trial setting. The Defendant shall inform the court whether he/she desires a jury trial or a bench trial (a trial without a jury).

The date of the postmark shall be deemed the date of filing of any plea received by mail. The date of receipt of a FAX by the Clerk's office shall be the date of filing of such plea.

### **3.5 Requests for Assistance**

A party desiring the services of an interpreter should make the request as soon as possible, in writing in the case of a written plea or in open court in case of a verbal plea. Requests for assistance from persons with disabilities should be made at the time the plea is entered.

## **RULE FOUR: NOTICE**

### **4.1 Responsibility**

It is the responsibility of all persons with business before the Court to:

- a) determine the date, time, location and nature of each setting of the case(s) and,
- b) update or notify the Court of any changes of address of the Defendant or of Counsel for the Defendant.

## **4.2 Notice**

Notice of the date, time, location and nature of each setting shall be given by the Court to a pro se Defendant in person or by mail to the last known address of the Defendant.

Notice of the date, time, location and nature of each setting shall be given by the Court to Counsel for Defendant in person or by mail to the last known address of the Attorney.

## **4.3 Verbal Representations**

Reliance by any party upon verbal representations from any Court staff or a police officer concerning any matters shall not be binding as grounds for continuance, setting aside a warrant or judgment, dismissal of any case or any other relief.

## **4.4 Complaint**

A copy of the Complaint will be made available to the Defendant or Counsel after request.

# **RULE FIVE: MOTIONS**

## **5.1 Motions for Continuance**

Motions for Continuance require good cause shown and will not be granted for delay purposes. A Motion for Continuance shall be filed with the Court as soon as the Attorney for the Defendant or the State, or pro se Defendant, is aware of the necessity for seeking a continuance.

### **5.1.1 Code**

Continuances are governed by Chapter 29 of the Texas Code of Criminal Procedure. This Rule 5.1 is intended to supplement and not to replace the provisions of the Code of Criminal Procedure.

### **5.1.2 Form**

All Motions for Continuance shall be in writing and shall be filed with the Court Clerk in which the case is set at least seven (7) days prior to the scheduled court date.

Each Motion for Continuance shall contain:

- a) The Cause Number;
- b) The name of the Defendant;
- c) The date and time of the setting for which the continuance is sought;
- d) The specific facts justifying the continuance. If the reason for the continuance is a conflict with a setting in another court, the Motion shall contain the Style and Cause Number of the other case, as well as the Court Number and time of the conflict;
- e) An oath attesting to the truth of the matters contained in the Motion; and
- d) A proposed order for the Judge to designate whether the motion is "Granted" or "Denied."

### **5.1.3 Emergency Motions**

Where the underlying facts (good cause) which form the basis for a Motion for Continuance were not discovered and could not have been discovered through the exercise of due diligence, an emergency Motion for Continuance may be requested. Such Motion may be filed at any time prior to the respective Court proceeding and will be ruled on by the Judge at the call of the docket.

### **5.1.4 Factors**

With the exception of continuances sought on Constitutional or Statutory grounds, the following factors will be considered in the determining whether the Motion shall be granted or denied:

- a) The specific nature of the conflict in scheduling;
- b) The age of the case;
- c) The number of previous continuances granted to each party;
- d) The timeliness of the filing of the Motion, including the date on which the scheduling conflict, if any, became known to the Movant; and
- e) Any other matter relevant to the Motion.

### **5.1.5 Denied Motions**

If a Defendant's Motion for Continuance is denied, in order for the Defendant to avoid a warrant, a bond in the amount set by the Court may be required to be posted, at the discretion of the Judge denying the Motion. It is the responsibility of the pro se Defendant or the Counsel for Defendant to determine whether the Motion was granted or denied and to determine whether a bond is required. If a State's Motion for Continuance is denied, the case will proceed to trial, plea or other disposition.

### **5.2 Vacation Letters**

Attorneys shall file a vacation letter with the clerk of the court no less than 60 days prior to the anticipated date that the vacation is to begin. If the vacation letter is not filed at least 60 days prior to the vacation commencement date, the Attorney shall file Motions for Continuance in each case set during the vacation period for the Judge to consider.

### **5.3 Motions to Withdraw**

Any attorney who makes an appearance on behalf of a Defendant shall continue to be considered by the Court as the attorney of record for that Defendant until a written Motion to Withdraw is filed by that attorney and is granted by the Court, or the case is disposed of by trial, plea, deferred disposition or driver safety granted, dismissal or substitution of counsel.

#### **5.3.1 Withdrawal without a Hearing**

A Motion to Withdraw as Counsel for Defendant may be granted without a hearing only if the moving attorney files a verified certificate stating the last known mailing address and telephone number of the Defendant and describes what efforts have been made to locate the Defendant or if

Counsel files along with the Motion a written consent to the withdrawal signed by the client which consent acknowledges that the Defendant has been advised of all future court settings.

### **5.3.2 Withdrawal with a Hearing**

If the requirements of Rule 5.3.1 are not satisfied, a Motion to Withdraw must be presented to the Court at a hearing after notice to the Defendant and to all other parties.

### **5.3.3 Substitution of Counsel**

A Motion to Substitute Counsel shall be signed by the attorney who currently represents the Defendant as well as the attorney who wishes to undertake representation of the Defendant. The Motion must include an affirmative statement that the Defendant has consented to the substitution. If a Motion to Withdraw as Counsel for Defendant also contains a Motion to Substitute Counsel and a Notice of Appearance by another attorney, that appearance will satisfy the requirements of Rule 5.3.1 and the attorney named in the Motion to Substitute will thereafter be considered by the court as attorney of record for the Defendant.

### **5.3.4 Affidavit of Intent to Surrender and Affidavit of Surrender**

Any attorney wishing to be removed from the bond of a Defendant shall file the appropriate Affidavit under either Article 17.19 CCP (for Defendants who are not incarcerated) or Article 17.16 CCP (for Defendants who are incarcerated). Such Affidavit may be presented at any time prior to or at a setting of the case.

### **5.3.5 Motions for Discovery, Pre-trial, Trial and Post-Trial Motions**

All other Motions shall be filed with the Clerk of the Court.

All pre-trial motions shall be filed at least 14 days prior to any pre-trial docket date and responses thereto, if any, shall be filed at least 7 days prior to said date. If a pretrial Motion has not been ruled on before trial date, such Motion shall be heard on the date of trial. Each Motion or Response shall contain a certificate of service signed by the Movant or Respondent indicating that a copy of such Motion or Response has been served upon the opposing party, the manner of service and the date of service.

## **RULE SIX: OFF-DOCKET PROCEDURES**

### **6.1 Off-Docket Motions**

An off-docket motion is any motion filed in a case not set on docket, in which case, the attorney shall file the Motion at the Court office located at 401 S. Rogers Street, Waxahachie, Texas 75165.

### **6.2 Walk-in Pleas**

Attorneys and pro se Defendants may appear at the Court during the Court's hours of operation to handle cases not set on that particular day's docket and cases with active warrants. Cases may be disposed of during the Court's hours of operation in which a pro se Defendant wishes to enter a

plea or present proof of compliance, request deferred disposition, defensive driving, or establish or reinstate a payment plan. In cases which have an active warrant, if the case is not resolved at that time, the warrant may be served resulting in the arrest of the Defendant. The Judge has the discretion to require any case to be reset to permit the Prosecutor an opportunity to be heard on the case(s).

## **RULE SEVEN: PRE-TRIAL DOCKETS**

### **7.1 Pretrial Dockets**

Upon entry of a plea of "Not Guilty" to any citation or complaint, the case will be set for a pre-trial docket. The purpose of the pre-trial docket is to allow the parties to discuss and, to the extent possible, agree on any pending non-evidentiary pre-trial motions. The purpose is also to resolve cases prior to trial and to set for trial those cases that cannot be resolved by agreement. Absent extraordinary circumstances, any case not resolved by the second pre-trial setting shall be moved to a jury trial or bench trial setting.

### **7.2 Evidentiary Pre-Trial Motions and Contested Non-Evidentiary Motions**

All timely filed evidentiary pre-trial motions, and all timely filed non-evidentiary motions which are contested, will be heard on the date of trial.

### **7.3 Failure to Appear at Pre-Trial Docket**

All parties are required to appear in person, or through their attorney of record, at the pre-trial docket. If the Defendant, or his/her attorney of record, fails to appear at the pre-trial docket, the judge may issue a warrant and/or forfeit any cash or surety bond that has been posted on the Defendant's behalf.

#### **7.3.1 Standing Order on Discovery**

In addition to and not in limitation of the provisions of Article 39.14 of the Code of Criminal Procedure, upon the filing of a pre-trial motion for discovery by the Defendant, the prosecutor shall produce to the Defendant, after redacting all personal information (i.e., driver's license numbers, social security numbers, and dates of birth) the following items as soon as practicable:

- a. A list of witnesses the State intends to call at trial. This list does not include any rebuttal witnesses that may be called.
- b. A list of the names, addresses and professions of all expert witnesses the prosecution intends to call at trial, along with each expert's qualifications, the subject and a description of his or her contemplated testimony, and his or her report.
- c. All inducements offered by the State which might tend to motivate its witnesses to testify against the defendant, including but not limited to, plea bargain agreements; fee, expense, or reward arrangements; agreements to dismiss, reduce, or not bring charges; or any other agreement of leniency.

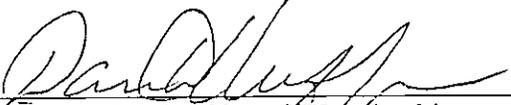
- d. All writings used to refresh the recollection any witnesses, as provided in Rule 612 of the Texas Rules of Evidence.
- e. All written confessions, admissions and statements, made by a Defendant to a police officer in connection with the case.
- f. All oral confessions, admissions and statements which have been electronically recorded, made by a Defendant to a police officer in connection with the case.
- g. The substance of all oral confessions, admissions, and statements made by the Defendant to the State in connection with the case which were not electronically recorded.
- h. All statements, written or oral, electronically recorded or not, given by the Defendant which are exculpatory or which tend to mitigate punishment.
- i. All statements of a nature as would be arguably admissible as a "res gestae" statement, spontaneous statement, or other utterance which the State intends to introduce in its case in chief, either during the guilt/innocence stage, or during the punishment stage.
- j. All witness statements as that term is used in Rule 615 of the Texas Rules of Evidence, whether in final, rough, draft, or other form.
- k. All statements made by any suspect, party or witness to the alleged offense which tend to exculpate Defendant or mitigate punishment.
- l. After redacting the drivers license number, social security number, date of birth of the alleged victim(s) and witness(es), and any other information required to be redacted by the Texas Code of Criminal Procedure or other law, offense reports, police reports, crime scene investigation reports or records or reports of any third parties, by way of written memoranda, letters, notes or transcriptions involving the alleged facts of the offense, the crime scene or any location which may have a bearing on any issue in the case.
- m. All hand-written, typed or otherwise recorded notes of law enforcement officers, relating to any part of this case (such as arrest, investigation, interrogation, interviews, or any other aspect) who investigated or participated in the preparation of this case for trial.
- n. All photographs, videotapes, audiotapes, drawings, charts and diagrams made by the State or law enforcement agency with reference to this case, including, but not limited to those of the scene of the crime and the scene of Defendant's arrest.
- o. All evidence in possession of, or within the knowledge of, the state or any of its agencies, including impeachment evidence, which is favorable to the Defendant and material to either guilt or punishment.

### **7.3.2 Prosecutor's Representations on Discovery**

Per the provisions of Article 39.14(j), of the Texas Code of Criminal Procedure, the City Attorney in his/her capacity as the Prosecutor in and for the Waxahachie Municipal Court represents that no

documents, items, or information will have been provided to a Defendant confined pursuant to an alias warrant issued out of the Waxahachie Municipal Court or instanter citation prior to the Defendant making a plea of guilty or no contest. Further, absent a written request for discovery under Article 39.14, Texas Code of Criminal Procedure, the prosecutor will not have provided to a Defendant any documents, items, or information prior to the Court taking a plea from the Defendant at a first appearance or plea docket in the Waxahachie Municipal Court.

Signed this the 28<sup>th</sup> day of June, 2016.

  
\_\_\_\_\_  
Prosecutor for the City of Waxahachie

## RULE EIGHT: TRIAL SETTINGS

### 8.1 Docket Order

Subject to the discretion of the Judge calling the docket, the order of cases actually proceeding to trial, whether bench trial or jury trial, shall be as follows:

- a) preferential settings
- b) cases set according to age, oldest first
- c) other circumstance as determined by the court in the interest of justice.

All cases not reached for trial on the trial docket, and not otherwise disposed of, will be noted as a Court's reset unless a reset was requested by a party and granted by the Court.

### 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 two hundred (200) miles outside the city limits of Waxahachie;
- b) Have a documented condition, illness or injury that would necessitate an expedited disposition of the case; or
- c) Have an outside witness who has appeared for at least one prior trial setting without the case having been reached.

### 8.3 Defendant's Attendance at Trial Settings

Every Defendant shall be present at the call of every trial docket, unless his/her attorney has filed and been granted a Motion for Continuance. Every pro se Defendant shall be present at the call of his/her trial docket, unless he/she has filed and been granted a Motion for Continuance. The Judge may issue a Warrant for Failure to Appear for any Defendant, whether represented by an attorney or pro se, who fails to appear without having been granted a continuance.

#### **8.4 Commencement of Trial**

The trial docket will be called at the time provided on the Notice of Setting. All parties are expected to be ready to proceed

### **RULE NINE: JUVENILE PROCEEDINGS AND MINORS**

#### **9.1 Juvenile Defined**

A juvenile is a Defendant who is at least 10 years of age and is younger than 17 years of age.

#### **9.2 Entering a Plea**

A juvenile must enter his/her plea in open court with a parent or guardian present.

#### **9.3 Notice of Current Address**

The parents and the juvenile have a continuing obligation to give written notice of their current address and any change of address.

#### **9.4 Minor in Possession and other Alcoholic Beverage Code Violations**

A minor (anyone under the age of 21 years at the time of the alleged violation) may only enter a plea to an Alcohol Beverage Code violation in open court.

### **RULE TEN: POST-TRIAL PROCEEDINGS**

#### **10.1 Admonishment**

Pro se Defendants are admonished, due to the inherent complexities of appellate law, to seriously consider retaining counsel to represent them on appeal.

#### **10.2 Inability to Pay Fine**

If a Defendant does not appeal the Court's decision, but claims indigency, the Defendant may request an indigency hearing. At that hearing Defendant shall be required to show cause and provide proof of why he/she cannot discharge the fine by making payments or performing community service hours in lieu of payment.

#### **10.3 Indigency Upon Appeal**

If a Defendant is indigent and unable to pay either the Appeal Bond or to pay for the transcript, he/she may file an Affidavit of Indigency with the Court and file a Motion to Waive Costs on forms approved by the Court. Such Affidavit of Indigency and/or Motion to Waive Costs must be filed within the statutory period to file an appeal Bond. A hearing on the Motion to Waive Costs shall then be scheduled by the Judge who entered the Order being appealed, unless that Judge is no longer available.

## RULE ELEVEN: SEVERABILITY AND CONSTRUCTION

### 11.1 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.

### 11.2 Inapplicability of Rules

The Rules set forth herein are the Local Rules of Court applicable to criminal proceedings, and are not applicable to the civil cases and administrative hearings heard in the Waxahachie Municipal Courts with the exception of Rule Two, Courtroom Decorum.

### 11.3 Construction

These Rules shall not be construed so as to enlarge, diminish, modify or alter the jurisdiction, power or authority of the Municipal Court of the City of Waxahachie.

### ADOPTION

The foregoing local rules of the Municipal Court of the City of Waxahachie, Texas are hereby adopted on this the 28<sup>th</sup> day of June, 2016.

  
\_\_\_\_\_  
Edward A. Jendrzey, Judge Presiding  
Waxahachie Municipal Court