

**RULES**  
**OF THE**  
**MUNICIPAL COURT**  
**CITY OF FRISCO**  
**TEXAS**

## **RULE ONE: ENTRY OF A PLEA AND PLEADINGS**

- 1.1 Written Plea.** All pleas of no contest or guilty shall be in writing and include waiver of jury trial. A payment of the window fine or an amount accepted by the court shall constitute a plea of no contest and waiver of jury trial as provided by law.
- 1.2 Plea by Mail.** The date of postmark shall constitute the date of filing if received within 10 working days of any plea delivered by mail.
- 1.3 Appearance by Defendant.** A defendant that is not represented by an attorney must appear in person for all case settings including motion/plea docket, pretrial and trial.
- 1.4 Pleadings in Civil Matters.** All pleadings in Civil Matters shall be filed timely in accordance with the Texas Rules of Civil Procedure.

## **RULE TWO: COURTROOM DECORUM**

- 2.1 Order:** Order shall be maintained at all times. Traditional courtroom etiquette is observed by the court. Failure to follow Court Rules or instructions of the judge or bailiff may result in corrective action by the judge including, but not limited to: reprimand, expulsion from the courtroom or contempt of court.
  - a.** Unless making an objection, only one person may speak at a time. If a defendant is represented by more than one attorney, the attorney of record shall advise the trial judge if more than one attorney will speak on behalf of the defendant and if so, what part of the hearing or trial they will conduct.
  - b.** No one may talk while the judge is talking.
  - c.** Participants will address others respectfully.
  - d.** Personal conversations should be kept to a minimum and should be conducted at a level that does not interfere with court business.
  - e.** Individuals present in the courtroom when a jury or judge enters or leaves shall rise and stand until directed to be seated by the bailiff or judge.
  - f.** Remain seated during trial except to make objections and opening and closing arguments. Request permission from the judge before approaching the bench or witness stand.
- 2.2 Weapons:** No weapons shall be brought into the courtroom with the exception of commissioned peace officers unless specially authorized by the judge presiding.

- 2.3 Gum\Food\Drink.** No gum or open containers of food or drink shall be consumed or brought into the courtroom without permission from the judge.
- 2.4 Dress Code.** Dress appropriately and respectfully. Clothing should be clean and devoid of anything that could be considered offensive, vulgar or obscene. Shirts with collars are suggested and must be tucked in. Tank tops and shorts are prohibited in the courtroom. Footwear is required. No hats, headgear or sunglasses shall be worn in the courtroom except with permission of the judge. Access to the courtroom may be denied if not dressed properly.
- 2.5 Reading Materials.** Reading by non-participants is not permitted when the judge is in the courtroom if it creates noise which is distracting to the participants.
- 2.6 Seating.** All persons in the courtroom shall be seated unless standing is required to comply with Court Rules or directed to stand by the court bailiff or judge.
- 2.7 Electronic Devices.** All electronic devices must be set to silent mode or turned off when in the courtroom. Failure to comply may result in a seizure of the device and the holder thereof being held in contempt of court.
- 2.8 Recording Devices.** Except by leave of the judge presiding, no photo- or electro-mechanical means of recordation or transmission of court proceedings or those present is permitted in the courtroom. *In other words, taking photographs and audio and/or video recording in the courtroom is strictly prohibited and may result in being held in contempt of court.*

### **RULE THREE: NOTICE**

- 3.1 Responsibility.** It is the responsibility of all parties and interested persons to be aware of the date, time and nature of each setting of a case.
- 3.2 Change in Personal Information.** Defendants and attorneys of record have a continuing obligation until the case is closed, to promptly notify the court with a written notice calling attention to any change in contact information such as home and work addresses, telephone numbers, etc. A return address on an envelope is not sufficient notice to call attention to a *change* in address.

- 3.3 Change in Financial Status.** Defendants are obligated to inform the court of any material change in financial status that impacts their ability to pay any fees, fines, court costs or restitution or post bond.
- 3.4 Notice.** Notice of the date, time and nature of each setting shall be given in writing, in person or by mail, to the last known address of the defendant or their attorney, if represented. A copy of each notice shall be kept in the case file and marked as to the manner of its delivery.
- 3.5 Verbal Representations.** Verbal representations by police or court personnel are not binding on the Court.
- 3.6 Charging Instrument.** A copy of the complaint is available upon request. Clerks shall provide a copy of the complaint when a case is scheduled for pretrial.

## **RULE FOUR: MOTIONS**

### **4.1 Motions for Continuance - Criminal Docket**

- A. Law.** Continuances are governed by Chapter 29, Texas Code of Criminal Procedure. These rules augment but do not replace the code.
- B. Form.** All motions shall be in writing and filed with the clerk of the court. Motions shall be filed promptly upon discovering the necessity for a continuance. Each motion shall contain: the cause number; name of the defendant; the date, time and nature of the setting to be continued; and specific facts and any supporting documentation justifying the continuance. If a continuance is requested due to a conflict with another case the motion must contain the following information on the conflicting case: style of the case; case number; court; judge's name; telephone number of the court; type of setting; and date setting was received. **All motions for continuance shall include a proposed Order for the judge's signature.**
- C. First & Subsequent Motions.** The first Motion or Request for Continuance will be granted automatically with a signed setting form acknowledging receipt of the new court date. Second and subsequent Motions will only be granted with a showing of good cause as determined by the judge presiding.

- D. Emergencies.** Motions filed less than forty-eight (48) hours prior to a trial setting (jury or judge) may be ruled on immediately or addressed at the call of the docket, at the discretion of the judge.
- E. Agreed.** If there is an agreement to reschedule, the Defendant shall sign a setting form acknowledging receipt of the new court date. The case will remain on the docket as scheduled unless a new setting form has been signed by the Defendant.
- F. Factors Considered.** Except in cases where constitutional or statutory continuances are sought, the following factors will be among those considered in determining a motion: the specific nature of the conflict such as illness, unavoidable travel or other courts (include court, case number and style, telephone number and when setting was obtained); age of case; prior continuances; timeliness of request (include date on which conflict became known); and type of setting (motion, pre-trial, trial). A *first* motion for continuance of an appearance, motion or pre-trial hearing will be deemed sufficient if requested any time prior to the scheduled time and date and will be re-scheduled without the requirement of a bond (note: this does not apply to trial settings). Motions for continuance shall be designated as first, second, third etc. as applicable and include a proposed Order.
- G. Denied Motion.** If a defendant's motion is denied they may post a bond in the amount of the window fine, unless a different amount is specified by the judge, to avoid the issuance of an arrest warrant.
- H. Bond in Lieu of Motion.** As an alternative to filing a motion to continue for a trial setting or if it is a second or subsequent motion to continue, a defendant, may in advance of a setting, post a bond (surety or cash) in the amount of the window fine and obtain a new setting. In the event a bond has previously been posted, the court may require a cash bond equivalent to the maximum fine and costs allowed by law.

#### **4.2 Motions for Continuance - Civil Docket**

- A. Law.** Continuances are governed by Texas Rules of Civil Procedure 216a.
- B.** Rules B through F apply as stated above in Criminal Dockets except where Civil Rules Apply. A Defendant's

Failure to Appear without a Continuance may result in a Default Judgment.

#### **4.3 Motions to Withdraw.**

- A. Attorney of Record.** Any attorney who posts an attorney bond or makes an appearance on behalf of a previously unrepresented defendant or who represents to the court that he/she is the attorney for the defendant shall remain the attorney of record until a motion to withdraw as counsel or substitute other counsel is granted.
- B. Without Hearing.** A motion to withdraw will be granted without a hearing if the moving attorney files a certificate stating the defendant's current mailing address and telephone number along with a written consent signed by the client. Written consent is not necessary for disposed cases if the attorney states in a written motion that an employment agreement exists in which the attorney's representation ends upon disposition.
- C. With Hearing.** If the requirements of Section B or D are not met, the motion must be addressed at a hearing after proper notice to the client and all other parties. Attorneys seeking leave of court to withdraw are advised that the following must be filed:
1. Notice of hearing (withdrawals that leave a party to proceed *pro se* will only be handled by submission if prior, written consent of the client is obtained and filed with the Court or if the withdrawing attorney presents exceptional circumstances that warrant written submission).
  2. A statement of the particular circumstances and/or disciplinary rule requiring withdrawal. A general statement such as "irreconcilable conflicts" is not sufficient. Matters that should remain confidential may be filed under seal.
  3. A certificate by the attorney of record of his client's name, address and telephone number, and the statement that such information is current; or, if not current, when the information was last known to be correct and a description of the efforts made to ascertain a current address.

4. A copy of a letter sent by the attorney of record to the client giving notice: (a) that the attorney is withdrawing; (b) that the client has the right to object; (c) that the client is deemed to have knowledge of and is required to abide by all rules of procedure and evidence that apply to criminal cases if the client elects to proceed pro se; (d) that all notices from the Court to the most current address that the Court has for client will be deemed to have been received by the client unless client notifies the Court of any change of address; (e) that continuances or extensions by the client in order to obtain other counsel are within the discretion of the court and subject to a showing of due diligence on the part of client; (f) all pending settings and deadlines; and (g) notice of the hearing at which time the motion to withdraw will be considered.

5. Proof of service on the client of the letter described in item 4 must be filed with the Court.

**D. Substitute Counsel.** If a motion to substitute counsel includes an appearance by the substituting attorney, no hearing is required.

## **RULE FIVE: UNSCHEDULED APPEARANCE**

**5.1 General Rule.** Specialized dockets have been established to aid in the processing of cases in the courtroom. In the event an appearance in court is requested or required, defendants are expected to arrange their personal and work schedules accordingly.

**5.2 Off-Docket Hearings.** In rare instances, circumstances justify the processing of a case *off-docket*. Off-docket simply means that the case is being addressed in conjunction with or outside of the court's docketed cases. Off-docket hearings provide the court with the flexibility to timely address procedural impediments to the expeditious resolution of cases.

**5.3 Factors Considered.** In determining whether to process a case off-docket the following factors may be considered: residency of the defendant; professed inability to post bond on cases in active warrant status; age and/or number of charges; alleged inability to pay balances due on cases in active warrant status; situations that in the sound discretion of the court merit expedited disposition.

## **RULE SIX: ATTORNEY PLEA DOCKET**

**6.1 Defined.** The purpose of the Attorney Plea Docket is to provide Attorneys representing defendants an opportunity to engage in plea negotiations with the City Prosecutor. The Defendant is not required to appear unless otherwise required by law such as cases involving Juveniles and Alcohol-Related Offenses by Minors. *Juveniles and Minors are not required to appear unless a plea will be entered.*

**6.2 Procedure.** If there is a plea bargain offer, the City Attorney shall provide it in writing and will be tendered to the Attorney Representing the Defendant upon check-in. If the plea bargain offer is accepted the Attorney will sign the acknowledgements and submit the form to the Court for entry of the plea and either Judgment or Order. On a plea of not guilty the case will be reset to a Pre-Trial Docket. One reset for another Attorney Plea Docket will be granted to convey the offer to the Defendant or for investigation as necessary. Third and Subsequent resets for Attorney Plea Docket will only be granted with permission of the Judge Presiding.

**6.3 Attorneys Who Fail to Appear.** Attorneys who fail to appear without cause or notice to the Court and who fail to promptly take remedial action will be reported to the State Bar for Investigation for Disciplinary Action. The Attorney and Defendant will be issued a Notice to Appear. If the Defendant Fails to Appear, if applicable any Bond will be forfeited, and an Alias Capias will be issued for the Defendant's arrest.



## **RULE SEVEN: PRETRIAL SETTINGS**

- 7.1 Attorney Represented Defendants.** Defendants are required to appear with their attorney of record at the pretrial (CCP 28.01 Sec. 1). All of the following rules apply to Attorneys and Pro Se Defendants in Civil and Criminal Matters notwithstanding the reference to the Code of Criminal Procedure.
- 7.2 Deadline to File.** Any preliminary matters covered by Art. 28.01 CCP not raised or filed **seven (7)** days before the pretrial hearing will not thereafter be allowed to be **raised**, except by permission of the Court or for good cause shown. Resets following the initial pretrial setting are not resets of the pretrial hearing (unless so noted by the judge) even though the case remains on a “pretrial” docket due to prosecutor availability/docket economy and do not extend the deadline for filing matters covered by Art. 28.01 CCP.
- 7.3 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 or certified mail.
- 7.4 Hearing.** Failure to file pretrial motions as required herein shall constitute a waiver of having those issues heard. A case shall not be set for more than one pretrial hearing unless allowed by the rules or approved by the Court. After the posting of a bond for a missed trial date, a case may be placed on a pretrial docket for the limited purpose of obtaining a new trial date. A defendant who wishes to forego the pretrial hearing may do so by filing a written waiver of pretrial hearing.
- 7.5 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/Civil Petition or the law from which the complaint/petition is drawn. These issues shall include, but are not limited to, any factual situations that would invalidate the premise upon which a law or ordinance has been promulgated.

## **RULE EIGHT: TRIAL SETTINGS**

- 8.1 Docket Order.** The order of cases proceeding to trial is at the discretion of the Judge with preference to Criminal cases as required by law. All cases not reached will be noted as a “court reset” without prejudice to either side.
- 8.2 Docket Call.** Defendants, defense counsel and the prosecutor must be present in the courtroom at the time the docket is called.
- 8.3 Failure to Appear.** If a defendant or defense counsel is not present at the docket call, a bond in an amount and type specified by the judge must be posted in order to have the case reset, unless waived by the judge for good cause shown.
- 8.4 Audio/Video Equipment and Aids.** A defendant who wishes to use audio/video equipment and visual aids should contact the Court Administrator at least two weeks in advance to discuss compatibility and/or availability.
- 8.5 Recording/Media Access.** See Rule 2.8.

## **RULE NINE: POST TRIAL CRIMINAL CASES**

- 9.1 Motion for New Trial.** A Motion for New Trial is required to be filed within five days after rendition of judgment and sentence, Art. 45.037 CCP. No more than one new trial shall be granted the defendant in the same case, Art. 45.038 CCP.
- 9.2 Appeals.** Appeals are governed by the Texas Code of Criminal Procedure, Art 45.042.
- 9.3 Inability to Pay Fine.** A defendant unable to pay the entire fine and costs when due must either write a letter to the judge or appear in person at the court clerk’s office within 10 working days of their due date to request a hearing on their ability to pay. A defendant must complete and file, at least seven days prior to the scheduled hearing, a sworn Financial Information Packet (available from the court clerk) along with any required supporting documentation, for review by the Court. If, after hearing, the Court determines the defendant qualifies, the Court may allow the defendant to pay the fine in installments, discharge same by performing community service or waive fine and costs if circumstances warrant.
- 9.4 Arrest.** If a defendant does not pay the fine and costs assessed, meet all obligations of an installment plan, or discharge the amount due by performing court authorized community service, a writ will be issued

(capias pro fine) which will subject the defendant to arrest and incarceration. Defendants who have experienced a material change in circumstances that they believe excuses their failure to fulfill their obligations are responsible to immediately bring this to the court's attention by making a written request to be heard on the court's Compliance Docket where alternatives to payment will be considered based on the Defendant's ability to pay.

IT IS ORDERED that these rules as amended be, and hereby are, adopted as the Rules of the Municipal Court for the City of Frisco, Texas effective immediately.

Signed and Entered on this 6th day of December, 2017.

  
\_\_\_\_\_  
Judge Art Maldonado