



RULES OF THE CITY OF KEENE MUNICIPAL COURT OF RECORD

Pursuant to the authority of the Texas Government Code, the following Rules of the Municipal Court of the City of Keene, Texas, are hereby adopted effective August 1, 2018. These Rules supplement the Standing Orders issued by the Court from time to time.

It is intended that these Rules be construed consistent with Article 45.001 of the Texas Code of Criminal Procedure. Furthermore, these Rules may be amended from time to time to be consistent with State and Federal law and the Ordinances of the City of Keene.

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RULE 1 - ARRAIGNMENT SETTINGS

The court appearance date that appears on a citation or summons is an arraignment setting for the defendant to enter his/her plea before the judge.

RULE 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, which may be either in open court (plea court) or at the Court Clerk's window (pursuant to Standing Orders), the defendant may enter a plea of guilty, not guilty, or nolo contendere (no contest). If a not guilty plea is entered, the case will be set for a pre-trial hearing later. If the defendant wishes to have a trial by jury, a jury trial request may be made at the arraignment or at the pre-trial conference in writing.

RULE 3 - ENTRY OF A PLEA

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. Pleas entered in jail after arrest may be appealed within 10 days from the date of judgment and plea are entered.

Request for Assistance.

- a. A request for a language interpreter should be made in writing at the time a plea is entered.
- b. Requests for assistance from persons with disabilities should be made at the time the plea is entered.
- c. Requests for visual of 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.

Plea by Mail. The date of the postmark shall be designated as the date of filing of any plea received by mail.

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.

Defendant Appearance. A defendant who is not represented by an attorney must appear at all court settings of his/her case(s).

Responsibility. It is the responsibility of all persons with business before the court 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 (in writing).

Notice. Notice of the date, time and nature of each setting shall be given to each party in writing, in person in writing 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.

Verbal Representation. 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.

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

RULE 4 - CONTINUANCES

Upon motion of the State or the defendant or his attorney, the Court may grant a continuance upon a showing of good cause. All motions for continuances should be filed at least seven (7) 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 seven (7) days may be granted, as deemed necessary by the Court.

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

Form.

- a. All motions for continuance shall be in writing (fax acceptable) and shall be filed with the clerk of the court (motions clerk), unless in open court. Such motions shall be filed immediately upon discovering the necessity for a continuance. Motions filed less than four working days prior to the scheduled event will be ruled on at the call of the docket.
- b. Each motion shall contain:
 1. the citation number (cause number) and name of the Defendant;
 2. the date and time of the court setting requested to be continued;
 3. the requested date for a new court setting, if any;
 4. the specific facts or reasons justifying the continuance and supporting documentation, if any;
 - a. If the conflict involves another court date with counsel of record, counsel shall list the court number and location, cause number and style of the case, and date and time of court setting.
 5. A certificate of service indicating how the motion was communicated to the non-moving party (by regular mail to pro se Defendants or via fax to counsel of record of represented Defendants or the State); and
 6. an oath attesting to the truth of the matters and information contained in the Motion for Continuance.

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

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, high 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 continuance previously granted to each party.
- d. The timelessness of the filing of the motion, including the date on which the conflict became known to movant.

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.

Denied Motion. If a motion is denied, 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.

RULE 5 - DISCOVERY

Motions for Discovery. If a Defendant or an attorney of record wants any reports, documents, papers, photographs, video, or any other information pertaining to their case, the Defendant or attorney of record may file a motion for discovery. The motion shall comply with Art. 39.14, Texas Code of Criminal Procedure. The motion must be filed no later than 14 days prior to the scheduled pre-trial setting. The State shall respond in writing, filed with the Clerk of the Keene Municipal Court no later than 7 days prior to a scheduled pre-trial hearing, and the Court will rule on the motion at the pre-trial setting. Discovery issues not raised at the pre-trial setting cannot be raised on the day of trial unless the judge determines good cause exists to consider the issue(s) on the day of trial.

Requests for Disclosure After January 1, 2014. Requests for disclosure pursuant to Art. 39.14, Texas Code of Criminal Procedure for offenses committed on or after January 1, 2014, shall be written, presented to the State's Attorney and filed with the Clerk of the Keene Municipal Court to be included in the Court's file. Unless good cause is shown, requests for disclosure must be made and filed not later than 14 days prior to a scheduled pre-trial hearing. The State shall determine if the State or any agent of the State has possession, custody or control of the requested material, and the State shall respond in writing, filed with the Clerk of the Carrollton Municipal Court no later than 7 days prior to a scheduled pre-trial hearing. If a request for disclosure is not made or is not made timely, the Defendant declines to review the evidence, if any, in the

RULE 6 - TRIAL SETTING

A request for a trial may be made in person, by the defendant or by attorney, prior to or at the scheduled arraignment docket. The request shall specify either a jury or non-jury setting, recorded or not recorded and if jury selected to assess or court assess fine.

Upon making a request for trial, the attorney of record shall provide his name, office address, bar card number, and telephone number. A defendant representing himself and requesting a trial shall provide current work and home address and telephone numbers.

Upon making a request for trial, a pre-trial shall be scheduled by the court. A juvenile defendant must appear at all court appearances.

RULE 7 - TRIAL DOCKET

All cases set on the trial docket will be called at the time for which they are set, whereupon the State and the defendant are expected to announce ready for trial subject to the hearing on any properly filed pretrial motions.

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 issue a warrant for the defendant's arrest and may require that the defendant post a bond.

If the State fails to appear and announce ready for trial at the time a case is called for trial, without showing good cause, the Court may proceed to trial.

The Court may, at the request of either the State or the defendant, or on its own motion, specially set a case for trial on the merits.

Docket Order.

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

- a. Preferential settings.
- b. Cases according to age, oldest first, or
- c. Order signed in on court sign in sheet.

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

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.

Required Appearance. All interested parties must be present and in the courtroom at the time the docket is called. Interested parties are defined as defendants, defense counsel, and state's counsel.

Failure to Appear.

- a. If defendant or defense counsel is not present, a bond must be posted in order to have the case reset, unless waived by a judge for good cause shown.
- b. If state's witness is not present, state shall show good cause for witness's absence, or proceed to trial.

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.

Media Access and Unofficial Recording Devices. 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 case. No video cameras, photo or digital cameras, or audio recording equipment is allowed inside the courtroom. Said equipment and personnel shall not in any way impede or block persons from entering or exiting the building or moving to a part of the building. If the quantity of equipment or the behavior of the media personnel becomes disruptive or interferes with the regular operations of the Court or any other department within this building, they will be asked to move outside of the building.

Record of the Proceedings. Keene Municipal Court is a court of record. To appeal a finding of guilty to County Court, a defendant should have a written record of the trial proceeding sent to the appellate court either by a court reporter's transcript or by an agreed statement of facts approved by City Attorney. Defendant must pay the cost for an actual transcript of the proceedings. (Section 30.00014(g), G.C.) The statement of facts must conform to the Texas Rules of Appellate Procedure and the Code of Criminal Procedure. The defendant must pay for the statement of facts. (Section 30.00019, G.C.)

RULE 8 - JUVENILES

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.

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 18 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 9 - ANCILLARY DOCKETS

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

RULE 10 - PRETRIAL MOTIONS

All pretrial motions will be heard prior to the commencement of the trial on the merits. At the discretion of the Court, pretrial motions may be set for a hearing upon written request of either party, as governed by Chapters 27 and 28 of the Rules of Criminal Procedure, and all other applicable rules regarding the hearing of pretrial motions. All motions, including motion for continuance, will be filed in the Municipal Court. The motion shall include a certificate of service as provided by Rule 21a of the Texas Rules of Civil Procedure.

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 form 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 of ordinance has been promulgated.

Motions for Continuance. Motions for continuance for pretrial must be filed with the court 7 days prior to the time and date of the scheduled court appearance.

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.

Deadline to File. Unless leave of Court has been granted, all pretrial motions shall be filed at least 7 days prior to trial. Such motions shall be heard no later than the day of trial.

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, e-mail (if receipt acknowledged by the other party by reply e-mail), or FAX.

Setting the Hearing Date. It shall be the responsibility of the party filing any pretrial motion to obtain a hearing from the Clerk of the Court.

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 witness and physical evidence.

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.

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.

With a Hearing. If all requirements of the aforesaid provision are not satisfied, a motion to withdraw must be presented at a hearing after notice to the Defendant and to all other parties.

Substitution. If a motion to substitute another attorney includes an appearance by another attorney, that appearance will satisfy the requirements of the aforesaid provision. Must be done in writing or via fax.

RULE 11 - JURY TRIALS AND REQUIRED FEES

A defendant convicted by a jury in a trial shall pay a jury fee of \$3.00 unless released from the obligation by the Court for good cause. (See Texas Code of Criminal Procedure, Articles 45.026 and 102.004)

RULE 12 - COURTROOM DECORUM

The Court is charged with the responsibility of maintaining proper order and decorum. Each Court session 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.

Dress. Shorts, very short dresses or skirts, halter tops, tank tops, sleeveless shirts of any kind, tops or dresses that reveal excessive cleavage, muscle shirts or tank tops, undershirts, t-shirts with indecent, profane, obscene words, language graphics or illustrations. "sagging" pants, or gang related clothing are **PROHIBITED** and **WILL NOT BE ALLOWED** in the courtroom. Defendants who appear in prohibited attire will be turned away and required to post bond for a new court date.

Accordingly, the Court shall require all litigants, jurors, witnesses, lawyers, and other with whom the Judge deals in an official capacity, to conduct and dress in a manner deemed fitting and respectful of the Court.

Order. Order shall be maintained always. Violation of this rule can result in a reprimand by the judge, expulsion from the courtroom or a contempt citation.

- a. Unless an attorney is making an objection, only one person may speak at a time.
- b. No one may talk while the judge is talking.
- c. Participants will address others respectfully.
- d. Courtrooms shall not be used as passageways.

Electronic Devices. Electronic devices are NOT allowed in the courtroom. Failure to comply will result in confiscation by the bailiff until the end of court business for the day. The Judge will allow cell phones in the

courtroom if they are turned off or on silent mode. Cellular phones that disrupt court will be confiscated by the bailiff at the direction of the Judge and will only be returned at the end of court proceedings. Further, the individual may be held in contempt of court, which could result in a \$100.00 fine and/or 3 days in jail.

Food\Drink. 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.

Chewing Gum. No chewing gum in the courtroom.

Hats. No hats, bandanas, do-rags, or any head covering shall be worn in the courtroom, except with permission of the Judge or if religious in nature.

Noise/Gestures. Conversations in the courtroom must be kept to a minimum and not interfere with the proceedings. Inappropriate gestures and remarks will not be tolerated.

Children. Small children must be controlled. Children will be asked to leave, if their behavior causes a disturbance.

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. No leaning on or getting too close to the bench.

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

Weapons. Absolutely no illegal weapons shall be brought into the courtroom, except for 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.

RULE 13 - MOTION FOR NEW TRIAL

A written motion for new trial must be filed by the defendant or the defendant's attorney in the Office of the Court Section, Municipal Court, no later than the tenth (10th) day after judgment is rendered, unless such time is extended by the Court for good cause upon proper written motion.

Codes. Motions for new trials and appeals are governed by the Texas Government Code, Section 30.00014, et seq. and Texas Code of Criminal Procedure, Section 45.023.

Appellate Information. The Clerk of the Court shall make available to each defendant a handout summarizing the appeal process when requested.

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 Indigence 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.

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 must appear at the clerk's office and request their case be set on the mitigation docket. If the defendant qualifies, the court may allow the defendant to pay the fine in installments or

discharge the fine by performing community service.

Warrant. If a defendant does not pay the fine, meet all obligations of an installment payment plan, or discharge the fine by performing community service as ordered by the court, a warrant shall be issued.

RULE 14 - APPEAL BOND

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 twentieth (20th) day after the date on which the motion for new trial is overruled. Appeal bond shall comply with Chapter 45 of the Texas Code of Criminal Procedure.

RULE 15 - PROCEDURE FOR POSTING BOND

When the defendant is in the custody of the Dallas County Jail or Ellis County Jail, acting under contract for the City of Keene, bond will be made at the Dallas County Jail or Ellis County Jail, which is open twenty-four hours a day. Either cash or surety bonds may be made at the Dallas County Jail or Ellis County Jail to secure the release of the defendant from police custody.

In all cases where the defendant is in the custody of any other law enforcement agency and there is a hold order placed upon said defendant by the City of Keene for delinquent charges, the defendant may secure his release as follows:

- a. Post a cash bond.
- b. Post a surety bond.
- c. Post a personal recognizance bond, which is granted only by the magistrate assigned to hear the jail arraignment docket.
- d. The defendant must sign all bonds.
- e. All bail bonds shall comply with Chapter 17, Texas Code of Criminal Procedure.

RULE 16 - AMOUNT OF BOND

- a. Each Municipal Court Judge shall set the amount of bail in cases under their jurisdiction.
- b. In appropriate cases, the amount of bond required might be increased or decreased only by the Presiding Judge or the judge of the court in which the case is docketed.

RULE 17 - BOND FORFEITURE

The purpose of a bail bond is to ensure the appearance of a defendant before the Court to answer a criminal accusation. If the defendant fails to appear in court as scheduled, the Court may issue a Judgment Nisi, a warrant for the defendant's arrest, and may increase the bail in each case. Bonds are forfeited according to the Code of Criminal Procedure and all other applicable laws dealing with the final forfeiture of bail.

RULE 18 - EXPUNCTION

All procedures concerning expunction of criminal records shall conform to the requirements of Chapter 55 of the Texas Code of Criminal Procedure.

RULE 19 - REVIEW OF COURT DOCUMENTS

The Municipal Court shall make court documents available for review under reasonable conditions and safeguards, and as required by law.

At no time may a defendant or his attorney remove the original complaint from the court jacket.

RULE 20 - CERTIFIED COPIES

Certified copies of court documents may be obtained from the Municipal Court the fees set forth by the City of Keene. Upon request, a defendant is entitled to one (1) free uncertified copy of the complaint of a pending case only.

RULE 21 - VACATIONS

Where no trial settings have taken place, each attorney desiring to ensure that they will not be assigned to trial during a vacation period, not to exceed four (4) weeks, shall submit a vacation request in writing to the Office of the Presiding Judge at least 30 days in advance of the scheduled vacation. Such request shall include:

- a. The dates of vacation;
- b. A list of all attorney's cases set for trial and/or arraignment. The list shall be supplemented by the attorney to include additional cases specified, including defendant's name, cause number, court number, date and time of setting; and
- c. The name and address of the person(s) who will receive notice of new court setting date(s).

If such vacation letter has not been filed, or if the attorney desires to change their vacation period to one different from the previous request, the attorney must present an individual motion for each case set during the new/different vacation period requested and shall be recorded by the court having jurisdiction of the case(s). Such motions shall be governed by the rules governing continuances as set forth in the Texas Code of Criminal Procedure and Rule 3 herein.

RULE 22 - TRANSFER OF CASE

A Municipal Court Judge presiding over any court or docket shall exercise complete judicial authority over judgments, orders, and process of said Judge's court.

The Presiding Judge may temporarily assign Judges to exchange benches and to sit and act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts. Except for extreme circumstances, Judges shall not make dispositions or take any action on a case not set on the docket for which that judge is responsible.

RULE 23 - 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 as such times as prescribed by the Presiding Judge.

RULE 24 - IDENTITY THEFT

In any case cases where the defendant contacts the court stating they did not receive the citation and state someone is using their name; the clerk(s) shall do the following:

- a. Advise defendant need written request
 - a. Stating the issue
 - b. Requesting a hearing
 - c. Include copy of government issued ID/DL
 - d. Signature on letter
- b. Clerks shall:
 - a. Pull warrant jacket from dispatch
 - b. Note the file that active warrant is pending
 - c. Notify the officer who wrote the citation to appear at pretrial
 - d. Set on earliest pretrial docket for the prosecutor to review with all parties present
- c. Prosecutor will make recommendation to the Judge

The Rules of the Municipal Court of the City of Keene, as provided herein are amended and become effective February 13, 2020.

Signed, Ordered, and Amended on _____.

Toni Driver
Presiding Judge
City of Keene Municipal Court

Municipal Court Prosecutor: Paul Previte

Court Administrator: Belinda De La Pena