



# **LOCAL RULES OF PROCEDURE, DECORUM, AND CONDUCT** **NOLANVILLE MUNICIPAL COURT OF RECORD**©

Presiding Judge Kevin R. Madison ©

## **I. AUTHORITY**

Under the inherent power and duty of all Texas courts as codified in Section 21.002, Texas Government Code, the following "Local Rules of Court and Rules of Decorum" shall apply and govern all proceedings before the Nolanville Municipal Court of Record in Bell County, Texas.

## **II. FORMAL OPENING**

Each session of Court shall be brought by announcement of the Bailiff, Court Clerk, or other officer of the court, requiring all to rise as the Judge takes the bench, stating in essence, "All Rise Nolanville Municipal Court of Record is now in session, Honorable Judge Kevin Madison, Presiding." The judge shall advise all parties to "be seated" after the judge is seated.

## **III. ATTIRE**

All attire shall be appropriate to show respect to the Court. All court participants shall remove hats, caps, or any materials that cover their head when entering the courtroom, except religious hats or materials, such as yamakas, turbans, or chunis. All shirts will be tucked in. Clothing that would be considered unacceptable includes, but is not limited to:

- A. Shorts, cut-offs, bathing suits.
- B. Low-cut blouses or tops.
- C. Skirts or dresses that are short (less than halfway from knee to top of thigh).
- D. Muscle shirts, shirts with no sleeves, undershirts, clothing with lewd, sexual, offensive, vulgar, racist, sexist, obscene, or sexually suggestive words, slogans, depictions, or pictures, including grotesque creatures.
- E. Clothing that is dirty, torn, or ragged.
- F. Clothing that is too tight, too short, excessively baggy, pant waists worn below the waist.
- G. Hats, caps, or bandanas.
- H. Dirty or muddy shoes/boots, open toed sandals, and flip flops.

#### **IV. CONSENT TO SEARCH**

All persons entering the court lobby, court facilities, and courtroom consent to search of their persons and all property in their possession by their entry into any part or portion of the courtroom building and courtroom. All persons who enter this building consent to be searched and there is no requirement of “probable cause” to search any person or property in the court lobby, court foyer, and courtroom in order to ensure the safety and security of court personnel and all other persons in the courtroom and court facility.

#### **V. CONDUCT REQUIRED OF COUNSEL AND PRO-SE DEFENDANTS**

1. Individuals who are representing themselves (“pro-se” parties) should be prepared to present their cases in a proper manner. It is unethical and improper for the Judge or Court Clerk to give any advice or instruction to any litigants on court procedures, evidence, rules or how to present and prove a case or defend a case. All defendants representing themselves must be prepared and know court procedures, Texas Code of Criminal Procedure, Texas Rules of Evidence, Local Rules of Court, and must prepare and file any written motions that they want the court to rule on, and should have an understanding how to conduct themselves at trial and pre-trial hearings. Pro-Se defendants will be held to the same standard as attorneys. If a defendant is unprepared, unaware, or not knowledgeable in presenting evidence, questioning witnesses, raising or responding to objections, or presenting any evidence or testimony in their case, this could and very likely will adversely affect the defendant’s ability to defend themselves in court. A pro-se defendant accepts all of the risks inherent in representing themselves without benefit of legal counsel. It is more prudent to employ an experienced attorney to represent you, if you are a defendant, in court. “It is unethical and improper for the Judge, Prosecutor, or Court Clerk to give any advice or instruction to any litigants on court procedures, evidence, rules or how to present and prove a case or defend a case.”
2. All parties and all attorneys representing parties shall observe the letter and spirit of all canons of judicial ethics, including those concerning improper *ex-parte* communications with the Judge and with those dealing with discussion of cases with representatives of the media.
3. Attorneys shall advise their clients and witnesses of these Rules of Decorum and Conduct that may be applicable to them.
4. Pro-se defendants who are representing themselves without retaining an attorney shall conform their behavior to all provisions applicable to attorneys.
5. Counsel shall be dressed appropriately while in attendance of the Court, which means a dress jacket, dress button down shirt, tie, and dress slacks, socks, and dress shoes or dress cowboy boots for men and dress, blouse and skirt, or business dress slacks and dress shoes for women. No blue jeans will be worn by counsel. Defendants shall be dressed in neat and clean shirts with appropriate shoes with socks or dress boots. No blue jeans, shorts, gym shorts, or swim trunks.
6. All parties shall be prompt in arriving for Court and in attending to Court business. Any party who arrives late may risk the issuance of a warrant if they are not present when the docket is called after Court goes into session.

7. Attorneys are not excused for arriving late even if in another Court, unless previous arrangements and approval of the Judge has been given.
8. Attorneys and pro-se litigants agree to appear for all hearings and court dates set by the Court, whether such notice was given to them by the Judge in open court or given to them by the Court Clerk at the Judge's direction via fax, first class mail, via telephone, via text messaging, via email, or via telephone voicemail message.
9. Attorneys and pro-se litigants understand that they are not excused from attending court hearings or trials simply based upon the filing of a motion for continuance or a request for continuance. Only if a motion for continuance has been granted by the court is a litigant or their attorney excused from appearing.
10. In the event there is a personal emergency or weather-related emergency that prohibits a party or attorney from appearing in court the party or attorney shall immediately call the court and send a fax with a sworn affidavit, under oath, explaining the failure to appear in court with specific facts as to the reason why that party or attorney was unable to appear.
11. An attorney or defendant's previous commitment to appear in another court is not a legitimate reason to appear late or fail to appear in this court. If you have another court hearing or appearance that conflicts with your setting in this court, it is incumbent on you and your attorney to ask this court or the other court for a re-set.
12. All parties and all persons in the courtroom shall rise when the Judge enters the courtroom and shall remain standing until the judge or bailiff announces, "be seated." The same procedure shall be followed when the judge announces a recess or conclusion of court proceedings and the judge exits the courtroom. When the judge gets up to leave the bench, all parties will stand until the judge has left the courtroom, then they may be seated.
13. The State shall be seated at the counsel table nearest the jury. Counsel for the defendant and pro-se defendants shall be seated at the other counsel table in the courtroom.
14. Counsel for the defendant and pro-se defendants shall utilize microphones as instructed by the Court in proceedings when a record of the proceedings is being made electronically.
15. If a party wishes to have a "record" of any pre-trial or trial, they shall request the Court to record their proceeding, by submitting a written request to the Court at or before said hearing or trial.
16. No audio or visual electronic recordings by any party or their attorney shall be made of any court proceedings, hearings, or trials. The recording of any court proceedings is prohibited unless the Presiding Judge approves of this, after a written request. The use of any cell phone device, camera, video recorder, smart phone, laptop, thinkpad, electronic tablet, and any other electronic devices capable of recording is prohibited in the courtroom. Any person caught recording proceedings without previous approval from the Presiding Judge may be held in contempt of court and may have their recording device seized.

17. All remarks of counsel to the Court shall be addressed to the Court formally (“Judge” or “Your Honor”).
18. The Court and opposing parties shall address each other and members of the jury without familiarity. The use of first names shall be avoided. Address the Court as “Judge” or “Your Honor”. Address opposing parties, counsel, witnesses, and Court Officers as “Mr.”, “Mrs.”, “Miss”, “Officer”, etc. Do not use first names, except with children.
19. All objections, arguments, and other comments shall be directed to the judge and not to opposing counsel. Once a party has made an objection, the other party shall stop and wait for the judge to make a ruling on the objection before proceeding further.
20. Objections shall be in proper legal form and shall comply with the Texas Rules of Evidence or other laws of this State. Argument will not be entertained upon an objection except with the Court’s permission. Do not thank the judge for his/her ruling on an objection.
21. In addressing the Court or jury, counsel and pro-se litigants shall rise and remain standing at their positions at counsel table.
22. When questioning a witness, counsel and pro-se litigants shall remain at counsel table and shall not attempt to approach the bench or witness unless permission is granted by the Judge.
23. Counsel, defendant, and the prosecutor shall remain seated at the counsel table at all times except: when the Judge enters or leaves the courtroom; when addressing the Judge or jury; when it is necessary to handle documents or exhibits or when granted permission from the Court to approach the bench, approach a witness, or approach an exhibit; and when objecting to opposing counsel.
24. Counsel and the defendant shall not approach the Judge’s bench except with permission from the Court (“May I approach, Your Honor?”).
25. Counsel and the defendant shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner, unless requested by the Court.
26. Neither counsel nor the defendant shall argue with the Judge, opposing counsel, or the witness.
27. There shall be no reading of newspapers, magazines, books, etc. in the courtroom during proceedings; there shall be no operation of any electronic devices in the courtroom, including but not limited to PDAs, cellular telephones, pagers, i-pads, laptop computers, electronic tablets, or texting devices. Texting or talking on a cell phone in the courtroom is disruptive, disrespectful, and may result in the offender’s arrest for contempt and seizure of the device.
28. Do not talk at the same time as the judge, counsel, witnesses, or other court personnel.
29. Racist, sexist, obscene, or profane language or gestures are prohibited unless it is pertinent to a case and is elicited and quoted from facts in the case.

30. Do not enter and depart the courtroom excessively.
31. Do nothing to disturb or distract the court, counsels, witnesses, and other court personnel. Children must not create a disturbance or they will be asked to be removed from the courtroom.
32. Children under ten (10) years of age should not be brought into the courtroom.
33. Do not approach the judge's bench or clerk's desk without permission. Do not rest your arms or hands on the judge's bench.
34. Do not lean over or touch any part of the judge's bench or go past any railings, markers, or dividers placed in front of the bench to restrict access to the bench.
35. Leave all purses, bags, brief cases, etc. at the defense table when you are called to the judge's bench.
36. Have all paperwork, driver's license, proof of auto liability insurance, evidence, etc. ready when called to approach the judge's bench.
37. No food or drinks are allowed in the courtroom.
38. No party may leave the courtroom building if their case has been re-set for another hearing or trial without first obtaining and signing a court date re-set form.
39. The Court may enforce these rules by appropriate action, contempt, or sanctions.
40. Nothing herein shall prevent or prohibit the further adoption of new rules or revision of these rules.

## **VI. PRE-TRIAL HEARINGS**

All cases set for Trial by Judge or Trial by Jury shall be set for a mandatory Pre-Trial. It is hereby ordered that in all cases not disposed of before pre-trial the prosecutor and defendant shall appear, present, and argue any motions regarding the following pre-trial matters, pursuant to Article 28.01, Texas Code of Criminal Procedure:

1. Arraignment of the defendant;
2. Pleadings of the defendant;
3. Special pleas, if any;
4. Exceptions to the complaint;
5. Motions for continuance;
6. Motions to suppress evidence;
7. Motions for change of venue;
8. Motions or Requests for Discovery;
9. Entrapment;
10. Motions for appointment of an interpreter;
11. Requests for jury trial and/or request for jury to assess fine rather than judge;

12. Requests for a recording/record to be made of the trial for appeal purposes;
13. In all cases where a jury trial is not waived the defendant and prosecutor will prepare a proposed Jury Charge and submit them to the judge at the Pre-Trial hearing.

A failure to present and argue any of the above motions or matters at pre-trial shall constitute a waiver of the party's right to present said requests or defense motion or said matters (1-13 above) to the court. A party who wants to waive his or her right to a jury trial, must do so in writing. A defendant may file a written "REQUEST TO WAIVE PRE-TRIAL HEARING" with the Court Clerk no less than ten (10) days prior to their pre-trial hearing. The judge will rule on this request.

#### **VII. FORMAT OF MOTIONS, FILING OF MOTIONS, AND SERVING COPIES OF ALL MOTIONS ON OPPOSING PARTIES**

All motions shall be hand-printed or typed and shall include a separate ORDER for each motion presented, which shall include their name and the case number for the judge to sign to either grant or deny each motion. If there are multiple cases/charges, the motion and accompanying order must reflect all charges and case numbers in the caption.

The party filing the motion must file the original motion with the Court Clerk and must include an order for the judge to sign with his ruling.

Original motions shall be filed with the Court Clerk via hand-filing, certified mail delivery, email, or via fax delivery. If utilizing fax delivery, it is incumbent on the party filing the motion to ensure that the Court Clerk has received the movant's motion and order.

The defendant must serve a copy of all motions on the state prosecutor and the state must serve the defendant with all motions no later than 24 hours from the time/date of the filing of their motion with the Court. Service of said motions on opposing counsel shall be by hand-delivery, fax delivery, email, or certified mail delivery.

#### **VIII. MOTIONS FOR CONTINUANCE**

Either party (State or Defendant) shall be allowed one initial re-set for an Initial Appearance setting by the Court Clerk or Court Administrator without the necessity of filing a sworn motion for continuance.

All subsequent requests for a continuance (re-set) must be IN WRITING sworn under oath, and must be filed with the Court (submitted to and received) no less than 72 hours before the date of a hearing sought to be continued, unless a bonafide emergency precludes the 72 hour notice requirement. All motions to continue a jury trial shall be served on the Court and all opposing parties no later than TEN (10) DAYS BEFORE THE TRIAL DATE.

There will be no re-sets of any trials except upon an emergency situation or upon good grounds found by the judge.

When submitting a motion for continuance, as in all motions, the party or his/her attorney are required to attach an order for the judge to sign indicating whether the motion has been granted or denied.

If, and only if, the motion is granted by the court are attorneys and parties excused from appearing. It is the duty of the movant to ascertain whether the judge has granted or denied their motion for continuance. If the motion has not been granted, the attorneys and parties are required to attend the court session to which they were assigned. If the motion for continuance was granted by the Judge, the attorneys, pro-se litigants, and all parties agree to appear at the new court date. It is the duty of all attorneys and pro-se litigants to contact the court and ascertain the time and date to which the case is reset. Failure to appear at the time and date on which your case is re-set shall constitute a Failure To Appear/Bail Jumping criminal charge to be issued against the defendant and may also be grounds for a contempt of court (order) charge being filed against the attorney as well as a possible complaint being issued to the State Bar of Texas for disciplinary proceedings.

#### **IX. DISCOVERY REQUESTS BY DEFENDANT – THE “MICHAEL MORTON ACT”**

All requests for discovery by the Defendant to the Prosecutor must be in writing and an extra copy must be filed with the Court so the Discovery Request can be placed in the court's file. The Prosecutor and Defendant are ordered to comply with the provisions set forth in Article 39.14(d), Texas Code of Criminal Procedure.

#### **X. CIVIL ACTIONS AND CIVIL PROCEDURE IN THIS COURT OF RECORD**

In all civil actions and cases in the Nolanville Municipal Court of Record the Texas Rules of Civil Procedure shall apply and shall govern civil law procedures and time deadlines.

#### **XI. RECORD OF TRIAL PROCEEDINGS**

Any requests for a record to be made of the trial by either party shall be in writing, filed, and submitted to the Court no later than the date and time of the Pre-Trial Hearing. If there is no pre-trial hearing, the request must be made no less than 7 days before trial. Failure to do so waives a defendant's right to have the proceedings (trial) recorded. Nolanville Municipal Court is a Court of Record and any appeals must be on a point of error supported by a Statement of Facts transcribed by a Court Reporter, from the electronic recording of the trial proceedings. A failure of to request a electronic record/recording of the proceedings may dramatically affect your legal rights to appeal in the event that you are found guilty of the charge filed against you.

#### **XII. APPEALS FROM THIS MUNICIPAL COURT OF RECORD**

All appeals from this court shall comply with Texas Government Code, Section 30.00014.

Sec. 30.00014. APPEAL. (a) A defendant has the right of appeal from a judgment or conviction in a municipal court of record. The state has the right to appeal as provided by Article 44.01, Code of Criminal Procedure. The county criminal courts or county criminal courts of appeal in the county in which the municipality is located or the municipal courts of appeal have jurisdiction of appeals from a municipal court of record. If there is no county criminal court, county criminal court of appeal, or municipal court of appeal, the county courts at law have jurisdiction of an appeal. (b) The appellate court shall determine each appeal from a municipal court of record conviction and each appeal from the state on the basis of the errors that are set forth in the appellant's motion for new trial and that are presented in the clerk's record and reporter's record prepared from the proceedings leading to the conviction or appeal. An appeal from the municipal

court of record may not be by trial de novo. (c) To perfect an appeal, the appellant must file a written motion for new trial with the municipal clerk not later than the 10th day after the date on which judgment is rendered. The motion must set forth the points of error of which the appellant complains. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed 90 days from the original filing deadline. If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law. (d) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court not later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed 90 days from the original filing deadline. (e) If the defendant is in custody, the appeal is perfected when the notice of appeal is given as provided by Article 44.13, Code of Criminal Procedure. (f) A municipality shall by ordinance establish a fee for the preparation of the clerk's record in the amount of \$25. The preparation fee does not include the fee for an actual transcription of the proceedings. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant. (g) The defendant shall pay the fee for the preparation of the clerk's record and the fee for an actual transcription of the proceedings.

### **XIII. NO PARTY OR ATTORNEY MAY RECORD TRIAL PROCEEDINGS**

No audio or visual electronic recordings shall be made of any court proceedings, hearings, or trials. The recording of any court proceedings is prohibited unless the Presiding Judge approves of this, after a written request. Any person caught recording proceedings without previous approval from the Presiding Judge may be held in contempt of court and may have their recording device seized.

### **XIV. NO USE OF ELECTRONIC DEVICES DURING COURT PROCEEDINGS**

The use of any cell phone, PDA, camera, video recorder, cell phone, laptop, thinkpad, i-pad, electronic tablet, or any other electronic devices is prohibited in the courtroom.

### **XV. ADDRESS AND TELEPHONE NUMBERS OF DEFENDANTS & ATTORNEYS**

Attorneys appearing before this court, parents and/or guardians of juvenile defendants (under 17 years old), and adult defendants (pro-se or represented by counsel) are ordered to deliver, in writing, notice of a correct current mailing address, cell phone number, and email address at the time of their first court appearance.

All attorneys, parents of juvenile defendants, and all adult defendants are also ordered to advise the Court of any changes to their mailing address, email address, and cell telephone number within three (3) days of said change.



Defendants, parents, and attorneys acknowledge and understand that failure to update the court with a new address and/or telephone number may result in a failure to receive notice of a court setting that may result in a judgment being rendered or a warrant being issued for defendant's arrest.

A defendant's failure (or a parent or attorney's failure) to update an address and/or telephone number will not raise the defense of lack of notice of a hearing, trial, or show cause setting. Failure to advise the court of a change of address may also result in the filing and prosecution of contempt charges against the defendant or parents of a juvenile defendant.

**XVI. JUVENILE DEFENDANTS HAVE A CONTINUING OBLIGATION TO APPEAR**

A child is any person who is under 17 years of age. A child and parent are required to appear before the court and have an obligation to provide the court written notice of the current address and residence of the child. The obligation does not end when the child reaches age 17 (legal adult in criminal matters). A violation of failure to notify the court of any change of your address may result in the defendant's arrest and is a Class C misdemeanor. The obligation to provide notice terminates only on discharge and satisfaction of the judgment or final disposition of your case.

**XVII. BAILIFFS**

The Bailiff or Bailiffs shall be present at all times when the Court is in session or in recess, unless excused by the Judge. No duty shall be assigned to the Bailiff without prior approval of the Judge. The Bailiffs are given full authority to enforce and are ordered to enforce all rules of conduct and decorum and other duties assigned by the Judge.

**XVIII. ENDORSEMENT**

All attorneys practicing before this Court and all pro se defendants acting as their own counsel are required to read these rules completely and to conform their conduct to the above stated Local Rules of Court and Rules of Decorum. All attorneys practicing before this Court and all pro-se defendants acting as their own counsel are required to sign and attest to their receipt of these Rules and to acknowledge that they will follow said Rules at the time of their first court appearance.

**SIGNED, ENTERED, AND SO ORDERED on July 4, 2020.**



**Honorable Kevin R. Madison  
Presiding Judge of Nolanville Municipal Court of Record**