

LOCAL RULES OF PROCEDURE
AND
RULES OF DECORUM
FOR
THE JUSTICE OF THE PEACE COURTS
BURNET COUNTY, TEXAS

EFFECTIVE JANUARY 1, 2023

TABLE OF CONTENTS

Chapter 1 – GENERAL; PAGES 3-4

- 1.1 Objective
- 1.2 Scope
- 1.3 Jurisdiction
- 1.4 Organization
- 1.5 Calendar
- 1.6 Jury Selection

Chapter 2 – JUSTICE CIVIL CASES; PAGES 5-9

- 2.1 Filing of Cases
- 2.2 E-Filing
- 2.3 Setting Cases
- 2.4 Demand for Jury
- 2.5 Provision and Costs of Copies
- 2.6 Provision of Self-Addressed, Postage-Paid Envelopes
- 2.7 Postponing Trial / Continuances
- 2.8 Conflicting Engagements of Attorneys
- 2.9 Matters Preliminary to Trial on the Merits
- 2.10 Recording or Broadcasting of Court Proceedings
- 2.11 Assignment and Transfer of Cases
- 2.12 Dismissal for Want of Prosecution
 - 2.12.1 Case Selection
 - 2.12.2 Notice
 - 2.12.3 Procedures for Relating Cases and Objecting to Motions to Retain
 - 2.12.4 Retained Cases
 - 2.12.5 Includes All Pending Claims
- 2.13 Drafts of Judgments and Orders
- 2.14 Mediation
- 2.15 Holidays and Other Temporary Closures

Chapter 3 – CRIMINAL CASES; PAGES 10-13

- 3.1 Filing Cases
- 3.2 Transfer of Pending Criminal Cases
- 3.3 Order of Transfer
- 3.4 First Appearance
- 3.5 Appointing of Counsel
- 3.6 Withdrawal or Substitution of Counsel
- 3.7 Recording or Broadcasting of Court Proceedings

TABLE OF CONTENTS – CONTINUED

- 3.8 Jury Selection
- 3.9 Setting Cases
 - 3.9.1 Conflicting Engagements of Attorneys
 - 3.9.2 Pretrial
 - 3.9.3 Pretrial Motions
 - 3.9.4 Jury Trial
- 3.10 Plea of Guilty or Nolo Contendere (No Contest)
- 3.11 Holidays and Other Temporary Closures
- 3.12 Magistration

Chapter 4 – ADMINISTRATIVE JURISDICTION; PAGE 14

- 4.1 Driver’s License Suspension and Revocation Hearings
- 4.2 Rights of Owners and Operators of Stored Vehicles (Tow Hearings)
- 4.3 Other Administrative Jurisdiction

Chapter 5 – ADDITIONAL DUTIES OF THE JUSTICES OF THE PEACE; PAGE 15

- 5.1 Death Investigations/Inquests
- 5.2 Officiate Wedding Ceremonies

Chapter 6 – RULES OF DECORUM; PAGES 16-18

- 6.1 General Rules of Courtroom Conduct
- 6.2 Attorneys
- 6.3 Self-Represented/Pro Se Litigants
- 6.4 Broadcast Media
- 6.5 Open Courtrooms

CHAPTER 1 – GENERAL

1.1 Objective

In accordance with provisions of Section 27.061 of the Texas Government Code, requiring the justices of the peace in each county to adopt local rules of administration and Section 15.0821 of the Texas Civil Practice and Remedies Code, requiring the transfer of pending civil case from one precinct to a different precinct, and Article 4.12 of the Texas Code of Criminal Procedure, requiring the justices of the peace in each county to adopt local rules of administration regarding the transfer of a pending misdemeanor case from one precinct to a different precinct, the Justices of the Peace in Burnet County adopt local rules to provide for administration of cases and for the assignment, docketing, transfer and hearing of cases.

These rules are promulgated to provide a uniform system for the fair, impartial and prompt disposition of matters properly before the Justice Courts of Burnet County. They are to be interpreted consistent with this objective.

1.2 Scope

These rules govern cases filed in the Justice Courts of Burnet County, Texas. They are promulgated pursuant to Section 27.061 of the Texas Government Code.

1.3 Jurisdiction

The Justice Courts of Burnet County hear the following (but not limited to):

- (a) Justice Civil cases, including debt claim cases, small claim cases (residential and commercial), eviction cases, and repair and remedy cases, in which the amount in controversy is \$20,000.00 or less.
- (b) Requests for Occupational Driver's License hearings.
- (c) Administrative hearings as listed in Chapter 4 of Local Rules.
- (d) Inquest investigations.
- (e) Criminal offenses which are fine only, both traffic and Class C misdemeanors.
- (f) Cases involving animal cruelty and neglect.
- (g) Peace Bonds.
- (h) And all other matters as defined by statute.

1.4 Organization

Each Justice Court in Burnet County has a specific geographical area of jurisdiction. Precinct One serves the Western part; Precinct Two serves the Northeastern part; Precinct Three serves the Southeastern part; Precinct Four serves the Southern part. Each court has its own court clerks responsible for setting cases on the individual docket of the court.

1.5 Calendar

Each Justice Court will keep a docket of scheduled hearings and trials. You may contact the court to inquire about the court's docket.

The elected Justice of the Peace will generally be available as indicated by these rules and the calendar. However, when a judge is on vacation, at a judicial or educational conference, or has other personal absences, it is the policy of the Justice Courts to have another Burnet County Justice of the Peace, exchange benches whenever possible, so that there will be no interruptions in the work of each court.

1.6 Jury Selection

The Justice Courts, like the County and District courts, use an electronic method of selecting names of the persons assigned for jury service. In most instances, Juror Summonses are sent to individuals by regular mail via the U.S. Postal Service. In some instances, when jury requests are made and the court is under short time restrictions, it may provide the Burnet County Constable's office in the precinct in which the trial is to be held with Juror Summonses for hand delivery to individuals chosen at random from public places in the county, who are confirmed to reside in Burnet County.

CHAPTER 2 – JUSTICE CIVIL CASES

2.1 Filing of Cases

All justice civil cases shall be filed in accordance with the Part V of the Texas Rules of Civil Procedure (TRCP), *Rules of Practice in Justice Courts*. There are four justice civil case types: Small Claims Cases, Debt Claim Cases, Repair and Remedy Cases, and Eviction Cases.

2.2 E-Filing

Burnet County Justices of the Peace Courts provide e-filing services

2.3 Setting Cases

All justice civil cases are to be brought to trial or final disposition as promptly as practicable.

At any time, the Court may order a pre-trial conference. The court may enter an order or orders following each pre-trial conference, which would address any applicable matters.

Each Justice Court shall be responsible for the setting of hearings and trials in each court and for the notices thereof.

2.4 Demand for Jury

A party requesting a civil jury trial shall file a written request, with the Court in which the case is filed, not later than the 14th day before trial. The jury fee shall be paid upon filing the request. Once the demand is made and the fee paid, the request cannot be withdrawn without approval of all parties. Jury fees are not refundable. Civil cases will be heard by the judge (Trial Before Court) unless a party requests a jury trial.

2.5 Provision and Costs of Copies

In accordance with Part V of the Texas Rules of Civil Procedure (TRCP), parties in Justice Court suits are responsible for providing an adequate number of copies of petitions and accompanying documents filed with the court for all parties being served.

The Court may assess fees to the party who fails to comply with TRCP, in order to provide necessary copies of documents to parties being served.

2.6 Provision of Self-Addressed, Postage-Paid Envelopes

A party desiring to have file-stamped copies of any documents returned to them by mail, shall include with the original document to be filed an extra copy of the document and a self-addressed, postage-paid envelope for the court's return.

2.7 Postponing Trial/Continuances

When practicable, prior to filing a motion for postponement (continuance), the party seeking a postponement in a justice civil case should attempt to confer with the opposing party or parties in an effort to secure an agreement to the delay. Requests for postponements must be submitted in writing to the court at least three (3) business days preceding the date of the trial or hearing, unless it may be shown that the grounds for the request arose thereafter. Motions for postponement may be granted or denied with or without a hearing by the court.

2.8 Conflicting Engagements of Attorneys

An attorney who is, or is scheduled, to be in trial in another court, will, in writing and as soon as the conflict becomes apparent, inform the Justice Court of the case number and the court in which the conflicting case is being tried. When informed that an attorney is in trial, the Court will verify the assignment. The case will be placed on "hold" or reset, depending upon the circumstances.

If the attorney is not actually in trial or scheduled for trial as represented by the attorney or agent, the case may be tried without further notice.

Attorneys assigned to trial in two Justice Courts in Burnet County for the same date must inform both courts of the conflict, in writing, as soon as the conflict becomes apparent. The Justices of the Peace will agree on which case has priority, with consideration given to the following:

- (1) Jury Trials
- (2) Criminal Cases
- (3) Cases given preference by statute
- (4) Cases with the earliest filing date

2.9 Matters Preliminary to Trial on the Merits

Except for motions for continuance based on new circumstances, all motions in limine, exceptions and all pre-trial motions and pleas in each jury case shall be presented and heard at a pre-trial hearing. All such exceptions, motions, and pleas not presented and heard at the scheduled pre-trial hearings will be deemed waived, except upon a showing of good cause.

For non-jury cases all exceptions, motions and pleas must be filed three days before the scheduled trial before the court.

2.10 Recording or Broadcasting of Court Proceedings

Unless written permission is obtained from the Justice of the Peace, recording or broadcasting of court proceedings is prohibited.

2.11 Assignment and Transfer of Cases

Notwithstanding other provisions of law regarding venue and jurisdiction, a justice civil case shall be heard by the court in which the case was filed, unless presented with a proper motion by a party in accordance with Part V of the Texas Rules of Civil Procedure, at which time the motion will be set for a hearing, if required by the court. If the motion is granted, the Justice of the Peace will:

- (1) Transfer the case to another Justice Court either in same Precinct or County, or another Precinct or County having proper venue and jurisdiction.
- (2) If the Justice of the Peace is disqualified to hear the case, assign the case to the nearest qualified Justice of the Peace in the county by exchanging benches.

An Order transferring the case shall identify the Court to which the case is being transferred and a copy of the Order shall be delivered to each party or their attorney of record.

If the motion is denied, the case shall be heard in the court in which the plaintiff initially filed suit.

2.12 Dismissal for Want of Prosecution by the Court

2.12.1 Case Selection

The following cases are eligible for dismissal for want of prosecution *sua sponte* by the Court:

- (1) Cases on file for more than 120 days in which no answer has been filed;
- (2) Cases that have been on file for more than 12 months that are not set for trial and have had no filings or settings within the prior 180 days;
- (3) Any other case designated by the Court.

2.12.2 Notice

The court clerk shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the notice of dismissal unless the Court orders it retained.

2.12.3 Procedures for Retaining Cases and Objecting to Motions to Retain

- (a) Motions to retain shall be filed with the Court at least 10 business days prior to the date specified in the notice of dismissal for want of prosecution.
- (b) Any party who files a motion to retain shall state in writing the factual and legal basis why the case should not be dismissed for want of prosecution.
- (c) Parties objecting to a motion to retain shall state in writing the basis for any objection to the motion to retain within 3 days of service of a motion to retain.
- (d) The Court may rule on the motion with or without a hearing; parties wanting to provide oral argument shall request a hearing in their motion or objection.
- (e) The Court shall notify all parties of the Court's ruling on the motion.

2.12.4 Retained Cases

If the Court decided to retain the case, the Court will set the case for trial at the convenience of the Court. The Court will notify the parties of the setting. At the setting, the case will be tried or dismissed.

2.12.5 Includes All Pending Cases

References in this chapter to a "case" include all pending claims in the case.

2.13 Drafts of Judgments and Orders by Parties in a Suit

So far as practicable, every draft of a judgment or order to be signed by a judge should be approved as to form by attorneys for all parties before it is presented to the judge.

A draft of an order shall not be typed on the same page with a pleading, motion, certificate of service, or any part thereof, and each such draft shall have a heading showing the cause number, the style of the case, and the court in which it is pending.

The word “entered” should not be used in the line provided immediately above the judge’s signature to show the date on which a judgment or order is signed.

The court may choose to use its own order.

2.14 Mediation

It is the policy of the Burnet County Justice Courts to encourage the peaceful resolution of disputes and the early settlement of pending litigation. Each court may determine which of its cases to refer to mediation and shall determine to which mediation service to refer a case.

Any party receiving notice of a referral to mediation has 10 days from date of notice to file a motion objecting to the referral. If any party to a case files a motion objecting to the referral to mediation, and the Court finds that there is a reasonable basis for the objection, the case may be excused from the referral.

The courts will not order mediation or any dispute resolution in an eviction case if it will delay trial.

2.15 Holidays and Other Temporary Closures

When any date mentioned in these rules falls on a court holiday or a date when the court is temporarily closed, then the applicable date shall be the first business date following the holiday or temporary closure.

CHAPTER 3 – CRIMINAL CASES

3.1 Filing Cases

Justice Court cases shall generally be filed:

- (1) in the precinct where the offense is alleged to have occurred, or
- (2) in the precinct in which the defendant or any of the defendants reside.

Offenses alleged to have been committed in more than one precinct may be filed in any precinct that the offense, or any portion of the offense, is alleged to have occurred.

3.2 Transfer of Pending Criminal Cases

Unless otherwise provided by a more specific Local Rule, the transfer of a criminal case from a Burnet County Justice of the Peace to another Burnet County Justice of the Peace in the precinct in which the offense was committed or in which the defendant resides, may be made by the Justice of the Peace Court in which the case is pending.

If a Justice of the Peace is disqualified from presiding in a criminal case, the Justice of the Peace will:

- (1) transfer the case to the other Justice of the Peace in the same Precinct; or
- (2) if the Justice of the Peace is disqualified to hear the case, assign the case to a qualified Justice of the Peace in the county by exchanging benches.

3.3 Order of Transfer

An Order transferring the case shall identify the Court to which the case is being transferred and a copy of the Order shall be delivered to each party or their attorney of record.

3.4 First Appearance

Unless otherwise directed by a court, defendants will appear at the Justice of the Peace Court in which the case is filed, according to the date and location written on their citation or summons.

Subsequent appearances will be scheduled by the Court.

A telephone call does not constitute an appearance.

Requests for language interpreter or special assistance for persons with disabilities shall be made at the time a plea is entered.

3.5 Appointment of Counsel

Indigent defendants are not entitled to a court appointed attorney, as a matter of law, when charged with a fine-only offense.

3.6 Withdrawal or Substitution of Counsel

An attorney becomes attorney of record in a misdemeanor case by listing his or her name on pleadings or by setting or resetting the case. He or she remains attorney of record until relieved by written order of the Court.

An attorney of record may withdraw from representation of a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion must provide the contact information for the substituting attorney. If no other attorney is to be substituted, the motion must be delivered to the party and contact information for the party must be provided in the motion.

3.7 Recording or Broadcasting of Court Proceedings

Unless written permission is obtained from the Justice of the Peace, recording or broadcasting of court proceedings is prohibited.

3.8 Jury Selection

The Justice Courts, like the County and District courts, use an electronic method of selecting names of the persons assigned for jury service. In most instances, juror summonses are sent to individuals by regular mail via the U.S. Postal Service. In some instances, when jury requests are made and the court is under short time restrictions, it may provide the Burnet County Constable's office in the precinct in which the trial is to be held with Juror Summonses for hand delivery to individuals chosen at random from public places in the county, who are confirmed to reside in Burnet County.

3.9 Setting Cases

Each Justice of the Peace court maintains its criminal docket, which are available at each respective court.

Attorneys or defendants may request reset of cases no later than 24 hours before the current setting, unless the circumstances justifying the request for reset occur thereafter.

Each Justice of the Peace Court may have its own rules about reset allowances for certain case types. Contact the applicable Justice of the Peace Court to learn about its specific rules.

3.9.1 Conflicting Engagements of Attorneys

An attorney who is, or is scheduled, to be in trial in another court, will, in writing and as soon as the conflict becomes apparent, inform the Justice Court of the case number and the court in which the conflicting case is being tried. When informed that an attorney is in trial, the Court will verify the assignment. The case will be placed on “hold” or reset, depending upon the circumstances.

If the attorney is not actually in trial or scheduled for trial as represented by the attorney or agent, the case may be tried without further notice.

Attorneys assigned to trial in two Justice Courts in Burnet County for the same date must inform both courts of the conflict, in writing, as soon as the conflict becomes apparent. The Justices of the Peace will agree on which case has priority, with consideration given to the following:

- (1) Jury Trials
- (2) Criminal Cases
- (3) Cases given preference by statute
- (4) Cases with the earliest filing date

3.9.2 Pretrial

Upon request by a defendant or defense attorney, upon a plea of *not guilty*, or for any reason determined appropriate by the Justice of the Peace, a case will be set for a Pretrial. Pretrial conferences are set on the Court’s docket once per month, or if the court finds necessary, twice per month.

3.9.3 Pretrial Motions

Pretrial hearings are normally conducted in Class C cases on the day of trial. Special pretrial settings must be requested and approved by the Court. Pretrial motions must be filed with the Court 21 days prior to any pretrial hearing. The Court will provide the motions to the county attorney.

All pretrial hearings will be held on the day set unless a written State or Defense motion for continuance is granted.

3.9.4 Jury Trial

Defense attorney and/or defendant shall appear at the scheduled jury setting. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or defendant must be presented.

3.10 Plea of Guilty or Nolo Contendere (No Contest)

Defendants may enter a plea of guilty or nolo contendere (no contest) at any time, with or without a plea agreement. Burnet County Justices of the Peace will maintain a “standard” fine assessment for offenses, in accordance with statutory provisions. Defendants may also elect to enter a plea of guilty or no contest and address the Judge regarding punishment.

3.11 Holidays and Other Temporary Closures

When any date mentioned in these rules falls on a court holiday or a date when the court is temporarily closed, then the applicable date shall be the first business date following the holiday or temporary closure.

3.12 Magistration

As a magistrate, the Justice of the Peace can act to order arrests; issue search and arrest warrants; find probable cause; warn persons accused of crimes; set bail amounts and implement conditional terms of bail; commit persons to jail; issue emergency protective orders; and carry out other important duties within the criminal justice system.

CHAPTER 4 – ADMINISTRATIVE JURISDICTION

4.1 Driver's License Suspension and Revocation Hearings

These cases are filed by the Texas Department of Public Safety. The Department of Public Safety, after consulting the Court, will provide the original hearing date and time to the driver's license holder. Requests for a reset of your hearing must be made in writing and submitted to the court within 24 hours of the scheduled hearing, unless a given situation arises that prevents the timeliness of the requests. The Judge's ruling on a reset request will be provided in writing. If a request is granted, a new court date and time will be provided by the court.

4.2 Rights of Owners and Operators of Stored Vehicles (Tow Hearings)

These cases are filed by vehicle owners or operators under Section 2308.452 of the Texas Occupations Code to determine whether probable cause existed for the removal and placement of a vehicle in a vehicle storage facility following the vehicle's removal without the consent of the owner or operator. A proper request filed under this section with the applicable filing fees will trigger a hearing. The case is docketed by the court clerk and notice of hearing is mailed to the filing party and all other respondents listed in the petition (i.e., towing company, vehicle storage facility, person/entity/law enforcement agency who authorized the towing, etc.).

4.3 Other Administrative Jurisdiction

- (1) Emergency mental health detention hearings
- (2) Disposition of stolen/seized property hearings
- (3) Disposition of cruelly treated animals hearings
- (4) Suspensions or denials of handgun license hearings
- (5) Occupational Driver's License hearings
- (6) Peace bonds.

CHAPTER 5 – ADDITIONAL DUTIES OF THE JUSTICES OF THE PEACE

5.1 Death Investigations/Inquest

In the absence of a county medical examiner, the Justice of the Peace performs death investigations/inquests of unattended deaths. The Justice of the Peace will authorize transport of bodies to a Medical Examiner's Office (if necessary, to assist in determining cause of death); determine date and time of death (based on facts or evidence found at the scene of the death); determine cause of death; and certify medical-related facts on the death certificate in the absence of a doctor's certification.

5.2 Officiate Wedding Ceremonies

Marriage licenses are obtained at the county clerk's office. Justices of the Peace have authority to officiate wedding ceremonies. Specific information regarding these services is available from each individual Justice of the Peace, who determines pricing and scheduling.

CHAPTER 6 – RULES OF DECORUM

6.1 General Rules of Courtroom Conduct

All offices of the court, except the Judge and jurors, and all other participants, except witnesses who have been placed under the rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the Court to order, complete order should be observed.

As to all persons in the courtroom, there shall be:

- (1) no tobacco or vaping products or use;
- (2) no chewing gum;
- (3) no excessively short pants, bare midriffs, tank tops, or hats;
- (4) shirt tails shall be tucked into pants;
- (5) no audible cell phones or electronic devices (except cell phone(s) belonging to the presiding judge);
- (6) no bottles, cups or beverage containers except court provided water, pitchers and cups or as otherwise permitted by the Judge;
- (7) no food;
- (8) no propping of feet on tables, chairs, railings or other courtroom furniture or architectural features and fixtures;
- (9) no weapons of any kind;
- (10) no noise or talking that interferes with court proceedings;
- (11) no tape recorders, cameras or other electronic devices for recording proceedings without prior approval of the Judge, and any devices allowed in will be turned off;
- (12) no packages, suitcases, boxes, shopping bags or containers without prior approval of the bailiff.

The Judge, the attorneys, and other officers of the court will refer to and address the court officers and other participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names, nicknames or terms of endearment.

All officers of the court should dress appropriately for court sessions.

6.2 Attorneys

Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper ex parte communications with the Judge.

Attorneys should advise their clients and witnesses of Local Rules of Decorum that may be applicable.

All objections, arguments and other comments by counsel shall be directed to the Judge or jury and not to opposing counsel or parties.

While another party is addressing the Judge or jury, an attorney shall not stand for any purpose except to make an appropriate motion, request or objection to the Court.

Attorneys should not approach the bench without leave of the court and must never lean on the bench. Attorneys shall remain seated at the counsel tables at all times except:

- (1) when the Judge enters and leaves the courtroom;
- (2) when addressing the Judge or jury; and
- (3) whenever it may be proper to handle documents, exhibits, or other evidence (leave of court is not required).

Attorneys should anticipate any need to use or move furniture, easels, or other equipment, and should make advance arrangements with the Court. Tables should not be moved during court sessions, unless approved by the Judge.

6.3 Self-Represented/Pro Se Litigants

Individuals representing themselves without an attorney are to abide by the same rules of procedures and decorum as attorneys appearing before the Court. You must read and follow the Local Rules and Texas Rules of Civil Procedure, Part V, Rules of Practice in Justice Courts. This includes, but is not limited to, providing notice of filings to other parties in your case as outlined in Rule 501.4 of the Texas Rules of Civil Procedure.

Self-represented litigants are required to provide address, email, and telephone numbers at which they can be reached by Court personnel and opposing counsel. Failure to accept delivery or to pick up mail addressed to the address provided by a self-represented litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery.

By proceeding without an attorney before the Court, individuals understand that the Judge may not, nor any Court personnel may not give legal advice. It is the responsibility of each individual to do their own legal research or seek out legal advice before coming before the Court.

6.4 Broadcast Media

Requests to broadcast court proceedings shall be determined by each judge on a case by case basis. Consultation with all parties to a case is discretionary, but parties may make appropriate objection.

6.5 Open Courtrooms

The public doors to the courtroom shall remain unlocked during court sessions. All persons shall be permitted to enter the courtroom and observe any public proceeding during court sessions unless their exclusion is authorized by law. At all other times, courtroom security guidelines, as published by the Office of Court Administration, shall be followed.