

**LOCAL RULES OF PROCEDURE
AND
RULES OF DECORUM
FOR
THE JUSTICE OF THE PEACE COURTS
MONTAGUE, TEXAS**

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CHAPTER 1

GENERAL

1.1 Objective

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

1.2 Scope

These rules govern cases filed in the Justice of the Peace Courts of *Montague County, Texas*. They are promulgated pursuant to Section 27.061 of the Texas Government Code. *Rules of Administration* effective January 1, 2012.

1.3 Jurisdiction

Justice of the Peace Courts of Montague County hear:

- (a) Civil cases in which the amount in controversy is \$20,000.00 or less.
- (b) Repair and Remedy cases \$20,000.00 or less limit (effective September 1, 2023).
- (c) Eviction cases, both residential and commercial, including Writs of Re-entry.
- (d) Administrative hearings include, but not limited to, revocation of driver's licenses, concealed handgun permits, disposition of property, occupational driver's license, animal cruelty and neglect, etc.
- (e) Criminal offenses which are fine only, both Traffic and Class C.
- (f) Peace Bonds
- (g) All other cases permissible under Texas law, including Section 27.031 - 27.034 of The Texas Government Code.

1.4 Organization

Each Justice of the Peace Court in Montague County has a specific geographical area of jurisdiction. Precinct 1, Place 1 serves the northern portion of Montague County; Precinct 2, Place 1 serves the southern part; Each court has its own court clerk(s) responsible for setting cases on the individual docket of the court.

***NOTE:** The term, Justice of the Peace Courts, includes both the Justice of the Peace, Precinct 1, Place 1 and Justice of the Peace, Precinct 2, Place 1.

1.5 Calendar

Each Justice of the Peace court will separately keep a docket of scheduled hearings and trials. A weekly docket for each Justice of the Peace Court shall be available to the public for each week's proceedings.

The elected/appointed judge will generally be available, as indicated by these rules and the calendar; however, when an elected/appointed judge is on vacation, at a judicial or educational conference, or has medical or dental needs, it is the policy of the elected/appointed Justice of the Peace to obtain a visiting judge, whenever possible, so there will be no interruption in the work of each court.

Visiting judges are also scheduled to help with business within a precinct.

A visiting judge when sitting, has all the rights and powers of the elected/appointed Justice of the Peace while serving in that capacity, but may not make personnel decisions about, or significant changes in the elected/appointed Justice of the Peace's office. A visiting judge shall serve in such court and at such times as prescribed by the elected/appointed presiding Judge of that court.

1.6 Empaneling the Jury – TRCP 504.2(a) Effective September 1, 2023

The Election Administrator utilizes the Electronic method for selecting names of persons assigned for a jury summons, and provides the summons to the Justice of the Peace Courts for mailing.

In instances, where the summons does not produce a sufficient number of prospective jurors, the Judge must direct the Montague County Constable or Sheriff to summon individuals, who are confirmed to reside in Montague County, and chosen at random from public places in the county. These names are added to the summoned prospective jurors who appeared for jury duty on the date of trial according to TRCP 504.2(a).

In the event challenges reduce the number of prospective jurors below 6, the Judge must direct the Constable or Sheriff to summon other individuals to serve as jurors, who are confirmed to reside in Montague County, and chosen at random from public places in the county. The Judge then allows them to be questioned and challenged by the parties as before, until at least 6 remain. TRCP 504.2 (a)

Chapter 2

JUSTICE COURT CIVIL CASES

2.1 Filing Cases

All justice civil cases shall be filed in accordance with Part V of the Texas Rules of Civil Procedure (TRCP), *Rules of Practice in Justice Courts*. Eviction cases shall be filed in the Justice of the Peace court where the leased premises are located. All other cases may be filed according to any applicable jurisdiction and venue laws. It is the responsibility of the party filing a case to file in the correct court.

2.1.1 E-Filing

Justice of the Peace Courts do not currently provide e-filing services.

2.2 Authorization to Serve Citation (TRCP 103)

Authorization to serve citation is governed by Texas Rules of Civil Procedure 501.2 and any other applicable rules and laws.

2.3 Mediation

It is the policy of the Montague County Justice of the Peace Courts to encourage the peaceful resolution of disputes and the early settlement of pending litigation. Each court shall 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. If either party fails to attend mediation or if no resolution is reached, the case is promptly set for trial.

Consistent with Rule 503.6 (b) of the Texas Rules of Civil Procedure, the Justice of the Peace court will not order mediation or any alternative dispute resolution process in an eviction case if it would delay trial.

2.4 Setting Cases

All 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 individual Justice of the Peace court shall be responsible for the setting of hearings and trials in each court and for the notices thereof.

2.5 Preferential Settings

Preferential settings may be obtained at the discretion of the Judge.

2.6 Demand for Jury

A party requesting a civil jury trial shall file a written request for a jury, no later than the 14 days before the date a case is set for trial. The jury fee of \$22 or a Statement of Inability shall be received upon filing the written request. If not, then the right to a jury trial is waived, unless excused by the Judge for a good cause.

2.7 Continuances

The Court will honor a timely-filed vacation letter, provided the case has not already been preferentially set for trial. To assert a vacation letter, please file a motion for continuance with a copy of your vacation letter attached to your motion and a proposed order.

Motions for continuances must be filed three (3) business days preceding the date of the trial or hearing. The notice and pleading requirements of law must be followed. Motions for postponement may be granted or denied with or without a hearing of the Court

2.8 Uncontested Docket

Uncontested matters and routine matters of very short duration may be heard at the uncontested docket as scheduled by each court.

Each Justice of the Peace court may establish a procedure of submitting agreed orders to the Court without a setting.

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 shall be presented and heard at a pre-trial hearing. All such exceptions, motions, and pleas not presented and heard at 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 with the Court, three (3) days prior to the scheduled trial.

A movant shall deliver a copy of each pleading to any opposing party and to the court in the manner and within the time provided by the Texas Rules of Civil Procedure.

2.10 Hearings Conducted by Telephone

The Judge will not initiate a conference call. Each judge will instruct the parties regarding arrangements for conference calls.

At any time, the Judge may determine that a hearing by telephone will not be sufficient and may require a hearing in court upon notice to all parties.

2.11 Dismissal for Want of Prosecution by the Court

2.11.1 Case Selection

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

- (a) Cases on file for more than 120 days in which no answer has been filed;
- (b) Cases that have been on file more than 8 months and not set for trial and have no filings/settings within the prior 180 days;
- (c) Any other case designated by the Court.

2.11.2 Docket Settings

Only the court may make a setting in cases for dismissal.

2.11.3 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.

2.11.4 Procedures for Retaining Cases / Objecting to Motions to Retain

- (a) Motions to retain shall be filed with the Court at least ten (10) working 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 three (3) days of service of a motion to retain.
- (d) The Court shall notify all parties of the Court's ruling on a motion to retain.

2.11.5 Retained Cases

If the Court decides 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 Drafts of Judgments and Orders

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 motion.

2.13 Motions to Withdraw as Attorney

Except as provided in Rules 8 and 10, Texas Rules of Civil Procedure, a motion to withdraw will be granted without a hearing, only if the moving attorney:

- (a) Files written consents to the withdrawal signed by attorneys for all parties; and

- (b) Files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that justify the withdrawal and the circumstances that prevent the moving attorney from obtaining the client's written consent; and
- (c) Files a certificate stating the last known mailing address of the client. If all requirements above are not satisfied, a motion to withdraw or to substitute another attorney must be presented at a hearing after notice to the client and to all other parties.

2.14 Holidays and Other Temporary Closings

The Court holidays shall be published on the Montague County website www.co.montague.tx.us. Additionally, notices of a holiday closing will be posted on entry doors of the Courthouse and Courthouse Annex.

Temporary closing(s) occurring due to unavoidable circumstances such as weather-related conditions and/or maintenance emergencies, are determined by the Montague County Judge.

Temporary closing(s) related to Judge/Clerk/Software Education/Training requirements, or temporary closings due to illness and/or family emergencies affecting staff availability will be posted on individual office entry doors.

The hours of operation for the Justice of the Peace office are noted on the individual office entry door.

When any date mentioned in these rules

- (a) falls on a Court holiday, **OR**
- (b) A date when the Court has been temporarily closed, **OR**
- (c) A date when the the Court closes before 5:00 p.m.,

then the applicable date shall be the first business date following the holiday, temporary closing or early closing time.

CHAPTER 3

CRIMINAL CASES - FINE ONLY- BOTH TRAFFIC AND CLASS C.

3.1 Filing Cases

Justice of the Peace criminal court cases shall be filed in accord with Article 4.12 of the Texas Code of Criminal Procedure. 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 First Appearance - in Person or by Correspondence Mailed, Faxed, or Emailed by the ON OR BEFORE Appearance Date on Citation

Unless otherwise directed by the Court, defendants will appear at the Justice of the Peace court in which the case is filed,

1. According to the ON OR BEFORE date and location stated on their citation, **OR**
2. Submit a written plea by fax or email to the Court by the appearance date, **OR**
3. Submit a written plea by regular or certified mail which is postmarked by the appearance date.
4. A defendant may contact the Court by phone during regular business hours to obtain information about his/her citation; however,
A TELEPHONE CALL DOES NOT CONSTITUTE AN APPEARANCE.

A request for a language interpreter or special assistance for persons with disabilities shall be made at the time a plea is entered.
Subsequent appearances will be as scheduled by the Court.

3.3 Plea of Guilty or Nolo Contendere

If not represented by an attorney, a defendant (or if represented by an attorney), the defendant's attorney may enter a plea of guilty or no contest at any time, with or without a plea agreement. If not represented by an attorney, a defendant (or if represented by an attorney, the defendant's attorney) may also elect to enter a plea of guilty or no contest.

3.4 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.

3.5 Setting Cases

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

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

Announcement Docket/Pretrial Docket: Defendants may discuss their cases with the County Prosecutor, plead guilty or no contest to resolve the case, or reset for trial.

3.5.1 Pre-trial Hearings

Pre-trial Hearings are submitted to the County Attorney prior to an agreed Pre-Trial Docket. Notices are mailed to defendants who have been set on a Pre-Trial Court Docket.

Pre-Trial Hearings will be held on the day set unless a written State or Defense motion for continuance is granted.

3.5.2 Trial before the Court (TBC)

Attorneys and defendants should not waive jury unless they intend the case to be tried on the TBC docket. All cases shall be tried when set unless a written State or Defense motion for continuance is granted.

3.5.3 Jury Trial

Defense attorney and/or defendant shall appear at the scheduled jury setting. State and Defense must either announce ready or file a written motion for continuance. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or defendant must be presented.

3.6 Motions to Withdraw or Substitute

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's motion to withdraw will be heard at any time when the defendant has had notice to appear or whenever the defendant agrees in writing.

Motions to substitute counsel will be granted without hearing, so long as the scheduling of trial will not be delayed by the change of counsel.

3.7 Unscheduled Appearances

In General Defendant or attorney representing defendant will generally not be able to meet with the prosecutor or judge in reference to specific cases outside the regular docket settings absent a show of good cause.

Files Defendant and the attorney shall have access to court files in the presence of court personnel. Files will not be released or removed from the courtroom or work area without authorization of the Judge.

3.8 Failure to Appear For Trial

If a defendant fails to appear in person and announce ready for trial at the time the case is called, without showing a good cause, the Court may issue a warrant for defendant's arrest and require the defendant to post an appearance bond. If defendant is represented by an attorney who fails to appear and announce ready at the time the case is called, the Court may issue a Show Cause Notice for Contempt of Court to the offending attorney, and may require the defendant to post an appearance bond. If the State fails to appear and announce ready for trial without showing good cause, the Court may proceed to trial.

3.9 Magistration

As a magistrate, the Justice of the Peace can, but is not limited to:

1. Act to order arrests
2. Issue search and arrest warrants
3. Warn persons accused of crimes
4. Set bail amounts and
5. Implement conditional terms of bail
6. Commit persons to jail
7. Issue Emergency Protective Orders

CHAPTER 4

TRANSFER OF CASES; SCHOOL ATTENDANCE CASES; BENCH EXCHANGE AGREEMENT

4.1 Civil Cases

- (a) At the Judge's discretion, a Justice of the Peace court in one precinct may transfer a pending civil case to another Justice of the Peace court in Montague County, provided that the receiving Judge has no objection to the transfer.
- (b) The parties lack standing to contest or request the transfer.
- (c) Once transferred, the case proceeds as if it arose originally in the court to which it was transferred.

4.2 Criminal Cases

- (a) A Judge may transfer a pending misdemeanor case to another Justice of the Peace in Montague County, provided that the receiving Judge has no objection to the transfer.
- (b) The defendant has 10 days to object in writing to the transfer.
- (c) Once transferred, the case proceeds as if it arose originally in the Court to which it was transferred.

4.3 School Attendance Cases

A Justice Court may transfer a school attendance case to a juvenile court within the county, if one exists. The transfer of other cases between Justice Courts shall be done in accord with Section 5.2 of these Justice Court Rules.

4.4 Bench Exchange Agreement

Pursuant to Texas Government Code Section 27.054, the Justices of the Peace Courts in Montague County and/or any another County hereby agree to exchange benches as a standing order, to exchange whenever convenient. This order shall automatically renew every 5 days until rescinded. A copy of the Montague County Justice of the Peace, Precinct 1 and Montague County Justice of the Peace, Precinct 2 and/or if with any other County Standing Order is published on the OCA website.

CHAPTER 5

ADMINISTRATIVE JURISDICTION

5.1 Driver's License Suspension and Revocation Hearings

Driver's License Suspension and Revocation hearing cases are filed by the Texas Department of Public Safety. After consulting the Court, The Department of Public Safety, will provide the hearing date and time to the driver's license holder. Any requests for a reset of the hearing should be made to the Texas Department of Public Safety, who will coordinate with the Court to determine the next court date available. The Department of Public Safety will provide a notice of the new court hearing date and time to the driver's license holder.

5.2 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
- (7) All other cases permissible under Texas law, including
Section 27.031-27.034 of The Texas Government Code.

CHAPTER 6

ADDITIONAL DUTIES OF THE JUSTICE OF THE PEACE

6.1 Death Investigation/Inquests

Montague County Justice of the Peace Courts perform death investigations/inquests of unattended deaths.

The Justice of the Peace will:

- (a) Authorize transport of the body/bodies to a Medical Examiner's Office if necessary, to assist in determining cause of death.
- (b) Determine the date and time of death based on the facts or evidence found at the scene of the death .
- (c) Certify medical-related facts on the death certificate in the absence of a doctor's certification.

CHAPTER 7

RULES OF DECORUM

7.1 Opening Procedure

Immediately before the scheduled time for the court session, the bailiff shall direct all persons present to their seats and shall cause the courtroom to come to order.

7.2 Recess

Before a recess of a jury trial, the jury will be excused, and all other persons present shall remain seated while the bailiff conducts the jury from the courtroom into the jury room.

After the recess, the jury shall be returned to the jury box from the jury room, upon the instruction of the Judge.

7.3 General rules of Courtroom Conduct

All officers 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.

In the courtroom there shall be:

- (a) NO TOBACCO;
- (b) NO CHEWING GUM;
- (c) NO READING OF NEWSPAPERS;
- (d) NO AUDIBLE CELL PHONES OR PAGERS;
- (e) NO BOTTLES, CUPS OR BEVERAGE CONTAINERS EXCEPT COURT WATER, PITCHERS AND CUPS OR AS OTHERWISE PERMITTED BY THE JUDGE;
- (f) NO EDIBLES;
- (g) NO PROPPING OF FEET ON TABLES OR CHAIRS;
- (h) NO NOISE OR TALKING THAT INTERFERES WITH COURT PROCEEDINGS
- (I) NO PACKAGES, SUITCASES, BOXES, SHOPPING BAGS OR CONTAINERS WITHOUT PRIOR APPROVAL OF THE BAILIFF.

7.4 General rules of Courtroom Dress Code

Proper Attire shall be worn to all Court proceedings. All officers of the Court are expected to dress appropriately and professionally.

Court participants should dress appropriately, including:

1. No bare midriffs or tank tops
2. No hats, caps or hoodies
3. Shorts should not be worn
4. Shoes must be worn
5. No sunglasses

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

7.5 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.

While another attorney is addressing the Judge or jury, an attorney should 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 Court and must never lean on the bench.

Attorneys shall remain seated at the counsel tables at all times, except:

- (a) When the Judge enters or leaves;
- (b) When addressing the Judge or jury; and
- (c) Whenever it may be proper to handle documents, exhibits, or other evidence (leave the Court is not required)

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

7.6 Self-Represented/Pro Se Litigants

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

7.7 Recording or Broadcasting of Court Proceedings

No tape recorders, cameras, or other electronic devices for recording proceedings without prior written approval by the Court.

Requests to broadcast Court proceedings shall be determined by each Judge on a case-by-case assessment after consultation with all the parties of the case.

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

7.8 Open Courtroom

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.

Approved by Montague County Justice of the Peace Courts on _____, 2023

Stefani Horton
Justice of the Peace, Precinct t 1
Montague County, TX

Jack Pigg
Justice of the Peace, Precinct 2
Montague County, TX