

LOCAL RULES OF THE COURT

COURTROOM RULES FOR TRIAL

RULE ONE: AUTHORITY

1.1 AUTHORITY FOR RULES

Under the inherent power and duty of all Texas courts pursuant to Section 21.001, Texas Government Code and Article 45.203(b), Texas Code of Criminal Procedure, the following local Rules of the New Braunfels Municipal Court are hereby adopted, effective 01/01/16. These rules shall govern any and all proceedings held in the Municipal Court of New Braunfels, Comal County, Texas.

1.2 APPLICATION

The Local Rules apply to attorneys and their staff members, to Defendants representing themselves (hereinafter “pro se Defendants”) to all court staff, to witnesses and observers. The presiding judge may promulgate additional rules or amend the current rules in a manner that does not conflict with State rules and applicable law.

Failure to comply with these rules may result in the imposition of sanctions, including contempt.

RULE TWO: NOTICE

2.1 RESPONSIBILITY

It is the responsibility of all persons with business before the Court to:

- Appear at their court dates at the date, time, and location as notified by the court and to be prepared for their hearing; and
- Update or notify the Court of any change of address of the Defendant or of the counsel immediately after changing addresses.

2.2. NOTICE

Notice of the date, time, location and nature of each setting shall be given by the Court to a pro se Defendant in person or by mail at the last known address or by e-mail. Notice of the date, time, location and nature of each setting shall be given by the Court to the Counsel for Defendants in person, by mail, by e-mail or report directed to the last known address of the Attorney.

No verbal notice by Court staff or bailiff concerning any matters shall be binding as grounds for continuance, setting aside a warrant, dismissal of any case, or any other relief.

RULE THREE: SUBPOENAS

Subpoenas are a court’s order for a witness to appear. If you have witnesses that you wish to testify on your behalf, you may request the court issue a subpoena.

3.1 REQUESTING A SUBPOENA BE ISSUED

To request issuance of a subpoena(s), defendants must make that request to the clerks’ office at least three weeks before trial.

3.2 INFORMATION REQUIRED TO ISSUE A SUBPOENA

Before the court can issue a subpoena, the request must include the name, address and telephone number of the witness. If you want the witness to bring evidence with him or her, you must specify the item the witness is to bring.

3.3 FEE

When the court serves a subpoena and if the defendant is convicted, a \$5.00 fee is added as costs of court.

RULE FOUR: CONTINUANCES

4.1 MOTIONS FOR CONTINUANCE

Motions for continuance are required to be in writing stating the reason for the request. Motions for Continuance that do not show good cause will not be granted. Motions for continuance used for the purpose of delay will not be granted.

4.2 FORM OF CONTINUANCE

All motions for continuance shall contain the following:

- Cause Number of the case,
- The name of the defendant,
- The date and time of the setting for which the continuance is sought,
- The specific facts justifying the continuance (If the reason for the continuance is a conflict with a setting in another court, the Motion shall contain the Style and Cause Number of the other case, as well as the Court Number and time of the conflict.), and
- A proposed order for the Judge to designate whether the motion is “Granted” or “Denied.”

4.3 TIME REQUIREMENTS

The continuance must be submitted to the Judge according to the following schedule:

- Three days before the date of a jury trial;
- Two days before the date of a bench trial;
- Two days before the date of all other hearings scheduled, such as: Uncontested Docket, Pre-Trial Docket, Attorney Docket, Discovery Docket, Show Cause docket, or other hearings.

Motions not submitted within the timelines noted above will not be granted.

4.4 METHOD OF DELIVERY

Motions for Continuance may be filed with the court by mailing, faxing (original must be mailed) or delivering the motion to the court.

4.5 DENIAL OF MOTION

If the court denies your motion for continuance, you must appear at your court setting. Failure to appear will cause a warrant to be issued for your arrest and denial of renewal of your driver's license. It is the responsibility of the pro se defendant or counsel to determine if the motion for continuance was denied or granted.

RULE FIVE: PRE-TRIAL MOTIONS

5.1 TIME TO SUBMIT

Pre-trial motions are set on a special hearing date. All pre-trial motions must be filed with the Court no later than 30 days prior to a trial date.

5.2 FORM OF THE MOTION

All motions for continuance shall contain the following:

- Cause Number of the case,
- The name of the defendant,
- The date and time of the setting for which the continuance is sought, and
- A proposed order for the Judge to designate whether the motion is “Granted” or “Denied.”

5.3 COPY

When filing a pre-trial motion with the court, the party filing the motion must provide a copy to the State.

5.4 HEARING

Motion hearings are scheduled 7 days before trial dates. Upon receipt of a motion, the clerks’ office will send notice of the date and time of the hearing. Be prepared to argue on behalf of your motion.

RULE SIX: ANNOUNCEMENT HEARING BEFORE JURY TRIAL

6.1 ANNOUNCEMENT HEARING

Before each jury trial, the court will conduct an Announcement Hearing so that the defendant has the opportunity to review all options. The defendants and their attorneys, if any, are required to appear at the Announcement Hearing.

6.2 NOTICE OF HEARING

When the court schedules the jury trial, the court will send notice of the trial date and the date of the Announcement Hearing.

RULE SEVEN: COURTROOM DECORUM

7.1 FORMAL OPENING

Each session of the Court shall be brought to order by formal announcement by the Bailiff of the Court. All parties and all persons in the courtroom shall rise when the Judge enters the courtroom and will remain standing until the Judge announces “be seated.”

7.2 LEAVING THE COURTROOM

Any person needing to leave the courtroom must obtain permission from the bailiff and will need to go through security before re-entering the courtroom.

7.3 CONDUCT IN COURT

Court is in session whenever the Judge is on the Bench. While the court is in session, unless the Judge directs otherwise, the following conduct must be observed:

- All persons including attorneys, defendants, witnesses, jurors and others shall observe all the Rules of the Court.
- Be on time. The courtroom will open 30 minutes prior to docket call.
- All persons attending to court business shall be appropriately dressed and will not be admitted if not so dressed. Inappropriate attire includes but is not limited to: shorts and cut-offs, mini-skirts, tank or halter tops, jeans with holes or cut outs, low pants with underwear showing, inappropriate “message” shirts, and sun glasses. All caps and hats of any type of head covering including scarves, bandanas or do-rags may not be worn in the Courtroom unless such item is of a religious nature or for medical reasons.
- No standing in the Courtroom, except when addressing the court or by direction of the Judge or when necessitated by the business of the court.
- Do not approach the Judge’s Bench or Clerk’s desk without permission. Remain one foot from the Judge’s bench. Do not rest arms or hands on the bench.
- Leave all purses, bags, brief cases and other similar items at the defense table when you are called to the Judge’s bench.
- No smoking or use of tobacco products, including snuff or chewing tobacco.
- No chewing gum or eating or drinking in the courtroom.
- Cell phones must be powered off at all times except by express permission of the Judge. Any device that rings or otherwise makes a sound may be taken by the Bailiff and not returned until the conclusion of the court proceeding.
- Electronic tablets or laptop computers may not be used in the Courtroom, except by permission of the Judge.
- No one may record proceedings without permission of the Judge.
- No reading of any materials, other than court documents, including books, magazines or newspapers and any electronic forms of such material during courtroom proceedings.
- No loud noises. Any children brought into the Courtroom must be quiet or they must be removed from the courtroom. Children under the age of 8 and children age 8 and older, who cannot sit alone, cannot be brought to the courtroom without an adult or older responsible child who can accompany them out of the Courtroom, if necessary.
- No gestures, facial expressions or sounds indicating approval or disapproval of a ruling by the Court or a comment on testimony of any witness.

RULE EIGHT: COURTROOM PROCEEDINGS

8.1 FAILURE TO APPEAR AT HEARING OR TRIAL

Failure to appear at a hearing or trial, will cause the court to issue a warrant for your arrest, add \$80.00 more fees to your case, deny renewal of your driver’s license and charge you with the crime of Failure to Appear. If you want a hearing after you failed to appear, you will have to post a bond with the court guaranteeing your appearance at any future hearing dates.

8.2 THE MEDIA

The media will not be allowed to record any court proceedings inside the courtroom. Any exception may be made by the Judge in each particular case. Broadcast media wishing to film proceedings from outside the Courtroom must position equipment so as not to impede ingress or egress to or from the Courtroom.

8.3 ADDRESSING THE COURT AND JURY

- Address the Court as “Judge” or “Your Honor.” When addressing the parties, use “Mr., Mrs. or Ms.,” or “Officer.”

- In addressing the Court or Jury, Counsel and/or Pro Se Defendant shall remain at the counsel table and shall not attempt to approach the bench or witness unless the Judge grants permission.
- You may remain seated when questioning the witnesses.

8.4 OBJECTIONS

All objections, arguments and comments shall be directed to the Judge and not opposing counsel. If a party makes an objection, stop and wait for a response from the Judge. The judge must make a ruling on the objection before proceeding further.

Do not argue with the Court. However, you should always seek to correct any factual misunderstanding.

Objections must be in proper legal form and shall comply with the Texas Rules of Evidence or other laws of this State. Arguments between parties (State and Defendant) will not be entertained upon an objection except with the Court's permission.

When the Judge says:

- SUSTAINED – Judge agrees with your objection. Testimony needs to be stricken from the record.
- OVERRULED – Judge disagrees with your objection. Judge will let the other party continue with their comments, questions, etc...

8.5 Evidence

When presenting evidence whether through testimony or exhibits (for exhibits see next section), make sure that you are using the Texas Rules of Evidence. These rules govern what type of evidence that you may present and how you need to present the evidence. For a copy of the Rules of Evidence, go to the New Braunfels Municipal Court website to find a link to the Rules.

8.6 EXHIBITS

When introducing exhibits, you must:

- Approach the clerk for a number to mark the exhibit,
- Provide the exhibit to opposing counsel for review, and
- Then you must approach the witness in order to question (lay the foundation) the witness with regard to the exhibit.

There are rules of evidence that you must follow in order to get evidence admitted to the Jury for their review. If you fail to properly introduce an exhibit, the Judge may not let your exhibit in for jury review.

8.7 TRIAL

- Presentation of the Case
 - The defendant or, if the defendant is represented by an attorney, the attorney presents the defendant's case.
 - Persons who are not licensed attorneys in the State of Texas cannot represent a defendant in court.
- Costs – If you are convicted at trial, you may be assessed the cost of the overtime of the officer(s) who testifies in your trial if the officer(s) is not on regular duty status, in addition to other required court costs and a fine.
- Bench Trials – You will receive a copy of your complaint.
- Jury Trials
 - You will receive the following:

- Draft of the jury charge (law that will be provided to the jury after you closing arguments,
- Juror List to be able to identify prospective jurors under questioning (voir dire) regarding their qualifications. List and information sheets with jurors' personal information must be returned to the court after the questioning is completed and the jurors selected for your case.
- Complaint
- Selecting Jurors
 - You may challenge any juror's qualification for cause. A challenge for cause is an objection made to a particular juror, alleging some fact which renders the juror incapable or unfit to serve on the jury. Draw a line through and mark your initials next to those people you wish to challenge for cause. When asked, Judge will call each person you have marked and question them at the bench with both sides present.
 - You may also strike three jurors without cause for any lawful reason. Make sure that you sign your name on the juror sign-in sheet and sign why you have submitted your strikes/challenges for cause.
 - The first six prospective jurors not removed by challenge or struck by a the peremptory challenge by both parties will serve on your jury.

8.8 DECISION

- Bench Trial – Judge makes decision to find you “not guilty” or “guilty.” If you are found “not guilty,” you may leave the court without payment of costs (exception is a \$30.00 Omni fee if warrants were issued on your case prior to your trial).
- Jury Trial – Jury makes the decision of guilt or innocence. If you elect for the jury to decide punishment, the jury will make the decision of the fine amount if they find you guilty. If you did not elect for the jury to decide punishment, the judge will make that decision if the verdict is guilty. If you are found “not guilty,” you may leave the court without payment of costs (exception is a \$30.00 Omni fee is warrant were issued on your case prior to your trial).
- Appeal – if you are found guilty, you have the right to appeal your case to the Comal County Court at law. You have 10 days from the date of the judgment to appeal. The appeal bond is two times the amount of fine and costs assessed in your case.