

§ IN THE MUNICIPAL COURT  
§ OF THE CITY OF DESOTO  
§ DALLAS COUNTY, TEXAS

LOCAL RULES FOR THE  
MUNICIPAL COURT  
CITY OF DESOTO, TEXAS

Effective Date: December 23, 2013  
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## RULE ONE: AUTHORITY

### **1.1 Authority for Rules**

Under the inherent power and duty of all Texas courts as codified in Section 21.001 of the Texas Government Code, the following Local Rules of the Municipal Court of the City of DeSoto, Texas (hereinafter "*Local Rules*") are promulgated and shall apply and govern any and all proceedings held within any Municipal Court of the City of DeSoto, Dallas County, Texas. These rules are adopted for the purpose of securing uniformity in those proceedings and in order to promote justice.

### **1.2 Application**

The *Local Rules* apply to attorneys and their staff members, to each Defendant representing himself/herself (hereinafter "*pro se Defendants*"), to all court staff, to the City's Prosecutor, and to witnesses and observers. Failure to comply with these rules may result in the imposition of sanctions, including contempt.

### **1.3 Effective Date**

These *Local Rules* as amended are effective February 18, 2014 and supersede all previous Local Rules and Standing Orders of the DeSoto Municipal Court that are in conflict with these Rules.

### **1.4 Availability**

A copy of these *Local Rules* shall be available in the courtroom of the DeSoto Municipal Court and on the City of Desoto website, which can be accessed at [www.desototexas.gov](http://www.desototexas.gov).

### **1.5 Citation Form**

These *Local Rules* shall be known as the Local Rules of the Municipal Court of the City of DeSoto, Texas and each rule may be cited as "DeSoto Local Rule \_\_\_\_" or "DLR \_\_\_\_".

### **1.6 Authority of Municipal Court Judges**

In accordance with 7.103 of the Code of Ordinances of the City of Desoto, the Municipal Court Judge may be assisted by an Alternate Municipal Judge sitting for the Municipal Court Judge in his absence, and who has authority of the Municipal Court Judge in general on the cases heard by the Associate Judge as does any Municipal Judge of a Court of Record in the State of Texas. The Municipal Court Judge and each Alternate Municipal Judge is also a Magistrate for every county into which the City of DeSoto extends and has all authority as a Magistrate of those counties, as set forth in state law.

## **1.7 Hours of Operation**

The hours of operation of the DeSoto Municipal Court shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday, with the exception of the Magistrate's Court held at the Tri-Cities Jail at 714 E. Beltline Road, DeSoto, Texas 75115. Hours of operation shall be posted on the City of DeSoto website at [www.desototexas.gov](http://www.desototexas.gov). Any exception to said hours shall be for City observed holidays or as determined by order of the Municipal Court Judge. The foregoing notwithstanding, the Municipal Court Judge shall have the authority to schedule the dockets of the court during the hours of operation of the court's offices.

## **RULE TWO: COURTROOM DECORUM**

### **2.1 Formal Opening**

Each session of the Court shall be brought to order by formal announcement by Bailiff of the Court. The Marshal of the City of DeSoto shall be in charge of the security for the courtroom during court sessions.

### **2.2 Conduct Required of All Persons Attending 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:

- a. No smoking or use of tobacco products, including snuff or chewing tobacco.
- b. No propping feet or sitting on tables, railings or the backs of benches or chairs.
- c. No loud noises. Any children brought into the Courtroom must be quiet or they must be removed from the Courtroom.
- d. No eating or drinking in the Courtroom.
- e. 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.
- f. No gestures, facial expressions or sounds indicating approval or disapproval of a ruling by the Court or a comment on testimony of a witness.
- g. All persons, whether lawyers, parties, witnesses, jurors, or spectators, conducting business, participating in trials, or otherwise attending proceedings in a courtroom of the Municipal Court of the City of DeSoto, Texas, shall be dressed appropriately so as to maintain the dignity, integrity, decorum, seriousness and professional atmosphere of the Court and the administration of justice. As such, no inappropriate attire, including short shorts, tank tops, sleeveless shirts, jeans with holes or cut-outs, low

pants with underwear showing or inappropriate “message” shirts, or sunglasses shall be allowed. No hats or head coverings including scarves, bandanas or do-rags shall be worn in the Courtroom, unless such item is of a religious nature or for medical reasons.

- h. All male attorneys shall wear coats and ties inside the Courtroom or shall be excluded from the Courtroom by the Bailiff or his/her designee. Female attorneys shall wear appropriate professional attire inside the Courtroom.
- i. No unattended children in the Courtroom.
- j. No cellular telephone calls are to be made in the Courtroom. All phones shall be set to vibrate or turned off. Any device which rings or otherwise makes noise may be taken by the Bailiff or his designee and not returned until the conclusion of the court proceeding.
- k. Absolutely no weapons shall be brought into the Courtroom, with the exception of those intended to be offered as evidence. The foregoing notwithstanding, Commissioned peace officers may bring weapons in the Courtroom. The Judge shall have the discretion to have any object removed from the Courtroom.

### **2.3 Conduct Required of all Attorneys and pro se Defendants**

Attorneys shall observe both the letter and the spirit of all Canons of Ethics and the Texas Disciplinary Rules of Professional Conduct, including those Canons concerning improper ex parte communication with the Judge and those dealing with discussion of cases with representatives of the media. In addition the following rules of conduct shall be observed:

- a. Attorneys shall advise their clients and witnesses of all of the *Local Rules* that may be applicable, and shall ensure that their clients and witnesses follow and fully adhere to all such rules.
- b. Pro se Defendants (Defendants acting as their own attorney) shall conform their behavior to all provisions of the Canons of Ethics applicable to licensed Attorneys. Pro se Defendants shall not attempt to converse with the Judge about their cases unless the prosecuting attorney is present.
- c. Attorneys and Pro se Defendants shall be dressed appropriately while in Court. See Rule 2.2 h above.
- d. All parties shall be prompt in arriving for Court and attending to Court business. Attorneys, Defendants represented by Attorneys and Pro se Defendants shall be on time or the bonds on their cases are subject to forfeiture. Any attorney with a scheduling conflict preventing his or her arrival to the court shall notify the Court at least 24 hours before the court setting, unless the delay could not be anticipated.

- e. Failure of an attorney representing a Defendant or Pro se Defendant to appear on time and as scheduled may result in a warrant being issued for the Defendant. An Attorney who fails to appear timely may be subject to sanctions including, but not limited to contempt.
- f. During trial or any hearing, all objections, arguments and comments shall be directed to the Judge and not to opposing counsel or to Pro se Defendants. Any objections which have been raised during a hearing or trial shall be supported by the legal basis for such objection.
- g. During trial or any hearing, all participants in the proceedings shall address each other and members of the Jury, if any, without familiarity. The use of first names shall be avoided. While addressing the Court, Attorneys, and Pro se Defendants shall rise and remain standing at their position at the counsel table, unless directed otherwise by the Judge.
- h. During trial or any hearing, Attorneys and Pro se Defendants shall not approach the Bench, except after requesting and receiving permission from the Judge, or as directed by the Judge.

## **2.4 No Recordings inside the Courtroom**

No one is allowed to record any court proceedings inside the courtroom, without the express permission of the Judge. 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.

## **RULE THREE: APPEARANCE, BONDS AND PLEAS**

### **3.1 Appearance**

An attorney must make an appearance in a case in writing filed with the Clerk of the Court in which the case is pending, which appearance shall include the Defendant's name, docket numbers for all cases being handled by the attorney, and the attorney's name, address, email address, fax number, and telephone number. An attorney filing a bond for and on behalf of a Defendant shall be deemed the attorney of record for the Defendant. [See DLR 7.5].

#### **3.1.1 Defendant's Obligation to Appear in Court Following an Unscheduled Court Closure**

A Defendant and/or his attorney shall personally appear before the DeSoto Municipal Court on the next business day (i.e. Monday through Friday) following the unscheduled closure of the Court that prevented the Defendant and/or his attorney from appearing in Court on the date and time previously set by the Court. The failure of the Defendant or the Defendant's

attorney to appear in Court on the next business day that the Court is open shall cause the issuance of a warrant for the Defendant's failure to appear on the next business day as provided in the pretrial notice signed by the Defendant or the Defendant's attorney of record.

### **3.1.2. Multiple Attorneys of Record**

Letters of representation and notices of appearance that list the names of additional attorneys in a law firm, whether partnership or professional corporation, are all deemed attorneys of record for the case(s) identified in the letter of representation or notice of appearance. A motion to withdraw brought by an attorney of record of a partnership or professional corporation shall not apply to other members of the partnership or professional corporation unless the individual attorneys are specifically identified in the motion and order to withdraw by name and Texas State Bar Number. (See DLR 5)

### **3.2. Information on Dispositions Given Only to the Attorney of Record**

The Court Clerk shall release information on cases only to the attorney of record, or the person or entity who posted a bond for a Defendant. Therefore, it shall be incumbent upon attorneys utilizing the services of other attorneys to dispose of their cases to obtain information on the disposition of those cases from those attorneys with whom they have collaborated. No attorney shall be permitted to enter a plea for and on behalf of a Defendant unless the attorney is the attorney of record for the Defendant (See DLR 5 below).

### **3.3 Bond Required**

For any Defendant with an active alias warrant, or if no warrant has been issued, on any case more than 60 days past the date of the issuance of the citation, the attorney or pro se Defendant shall be required to post a cash or surety bond, before the warrant is lifted and a court date is set. No bond is required if the Defendant or his attorney pleads guilty. **It shall be the responsibility of the surety on each bond to be sure that the bond contains, among other things, the original signature of the Defendant as principal, the return date and time on the bond and the original signature of the surety.**

#### **3.3.1 Oath of Surety Required on Attorney Bonds**

Attorneys and sureties posting bail bonds shall append to and make a part of their bail bonds the oath required by Article 17.13 of the Texas Code of Criminal Procedure. The Judge may, in his discretion, waive this requirement as authorized by Article 17.13. *[Note: A model attorney bond form containing the oath required by this DLR 3.3.1 shall be made available to attorneys on the Court's website at [www.desototexas.gov](http://www.desototexas.gov)]*

#### **3.3.1.5 Filing of Surety/ Bonds shall be filed in person or by email/Bonds shall not be faxed**

Surety bonds shall be filed with the Court either in person, by United States Mail, or by email, unless the defendant is incarcerated in the Tri-City Jail at 714 E. Beltline Road, DeSoto, Texas 75115. Surety bonds shall not be faxed to the Court or the Tri-City Jail, and any bond sent



by fax shall be not approved by the Magistrate. *No bond shall be accepted at the Tri-City Jail, unless the Defendant is currently incarcerated in the Tri-City Jail or it is after 5:00 p.m. when the bond is presented at the Tri-City Jail.*

### **3.3.2 Cash Bond Required After Forfeiture of Surety Bond**

As authorized by Article 23.05 of the Texas Code of Criminal Procedure, if the Judge forfeits the bail of a Defendant, the Clerk shall immediately issue a warrant for the arrest of the Defendant, and when the Defendant is arrested, the Defendant shall be required to post a cash money in order to be released from custody and/or, if not arrested, to obtain the release of the warrant and obtain a new court date.

### **3.4 Plea by Defendant**

Payment in full of the fine on a case pending in the DeSoto Municipal Court shall constitute a guilty/no contest plea and a waiver of jury trial. No partial payments shall be accepted without a plea entered in person. A plea of not guilty by a Pro se Defendant will result in a trial setting. The Pro se Defendant shall inform the Court whether he/she desires a jury trial or a bench trial (a trial without a jury). Pleas of not guilty will require the Pro se Defendant to appear in person for a pre-trial hearing.

The date of the postmark shall be deemed the date of filing of any plea received by mail.

The date of receipt of a FAX by the Clerk's office shall be the date of filing of such plea.

### **3.5 Request for Assistance**

A Defendant requesting the services of an interpreter in any language must appear in person on their assigned court date and make their request in writing. Other requests for assistance from persons with disabilities should be made at the time the plea is entered.

### **3.6 Defendant and Attorney Must Personally Appear in Court on the Return Date on a Bond**

*Beginning April 1, 2015, pursuant to Article 17.08 of the Texas Code of Criminal Procedure, all Defendants who have posted bonds to obtain their release from jail on warrants issued out of the DeSoto Municipal Court shall be required to personally appear before the DeSoto Municipal Court with the attorney who posted the appearance bonds on the Defendant's behalf on the specific return date and time listed on the appearance bond. Failure of the Defendant to comply with this Local Rule may result in the revocation of the Defendant's bond and the issuance of a new warrant for the Defendant's arrest, as well as, the filing of an additional charge based upon the Defendant's failure to appear as required by the initial appearance bond.*

*The foregoing notwithstanding, a Defendant who fails to make a personal appearance on the return date and time listed on the appearance bond may instead authorize his/her attorney to enter a guilty plea for and on behalf of the Defendant in connection with each case made the*

subject of an appearance bond. Beginning on April 1, 2015, a Defendant may be denied a deferred disposition in a case wherein an appearance bond was posted, unless the Defendant pays on the return date specified in the appearance bond at least \$50.00 of the non-refundable bond ordered by the Judge in the order granting deferred disposition or deferred adjudication, as applicable.

## RULE FOUR: NOTICE

### **4.1 Responsibility**

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

- a. determine the date, time, location and nature of each setting of the case(s) and,
- b. update or notify the Court of any changes of address, telephone number and email address of the Defendant or of Attorney(s) for the Defendant.

### **4.2 Notice**

a. Notice of the date, time, location, and nature of each setting shall be given by the Court to a Pro se Defendant in person, by email, or by regular United States mail at the last known address provided to the Court by the Pro se Defendant. Notice of the date, time, location and nature of each setting shall be given by the Court to the Attorney for Defendant in person, by mail, or by email directed to the last known address of the Attorney.

b. Notice to the Prosecutor shall be given by email to [jdosher@njdhs.com](mailto:jdosher@njdhs.com).

### **4.3 Verbal Representations**

Reliance by any party upon verbal representations from any Court staff or a police officer concerning any matters shall not be binding as grounds for continuance, setting aside a warrant or judgment, dismissal of any case, or any other relief.

### **4.4 Complaint**

A copy of the Complaint will be made available to the Defendant or Counsel upon request in open court, at the court window, or by email. Copies of complaints shall not be mailed unless the Defendant provides the Court with a self-addressed, stamped envelope.

## RULE FIVE: MOTIONS

### **5.1 Motions for Continuance**

Motions for Continuance require good cause shown and will not be granted for delay purposes. A Motion for Continuance shall be filed with the Court as soon as the Attorney for the Defendant or the State or Pro se Defendant is aware of the necessity for seeking a

continuance, but no later than the requirements set forth in 5.1.2(a) herein. All motions must be sworn to in accordance with Article 29.08 of the Code of Criminal Procedure. An attorney seeking continuance from an Attorney Plea Docket (APD) shall contact the Court to determine if there is another time that he/she could be present to dispose of their cases **before** the scheduled APD, in lieu of asking that cases be reset.

### **5.1.1 Code**

Continuances are governed by Chapter 29 of the Texas Code of Criminal Procedure. This Rule 5.1 is intended to supplement and not to replace the provisions of the Code of Criminal Procedure.

### **5.1.2 Form**

- a. All Motions for Continuance shall be in writing and shall be filed with the Court Clerk in which the case is set at least two (2) working days prior to the scheduled court date.
- b. Each Motion for Continuance shall contain:
  - 1) the Cause Number;
  - 2) the name of the Defendant;
  - 3) the date and time of the setting for which the continuance is sought;
  - 4) 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;
  - 5) an oath attesting to the truth of the matters contained in the Motion; and
  - 6) a proposed order for the Judge to designate whether the motion is "Granted" or "Denied."

### **5.1.3 Emergency Motions**

Where the underlying facts (good cause) which form the basis for a Motion for Continuance were not discovered and could not have been discovered through the exercise of due diligence prior to two (2) days before the scheduled trial date (See DLR 5.1.2), an emergency Motion for Continuance may be filed, in writing or orally before the Court. Such Motion may be filed at any time prior to the respective Court proceeding and will be ruled on by the Judge at the call of the docket.

### **5.1.4 Factors**

With the exception of continuances sought on Constitutional or Statutory grounds, the following factors will be considered in the determining whether a Motion for Continuance will be granted or denied:

- a. the specific nature of the conflict in scheduling;

- b. the age of the case;
- c. the number of previous continuances granted to each party;
- d. the timeliness of the filing of the Motion, including the date on which the scheduling conflict, if any, became known to the Movant; and
- e. any other matter relevant to the Motion.

### **5.1.5 Denied Motions**

If a Defendant's Motion for Continuance is denied, in order for the Defendant to avoid a warrant, a bond in the amount set by the Court may be required to be posted, at the discretion of the Judge denying the Motion. It is the responsibility of the Pro se Defendant or the Counsel for Defendant to determine whether the Motion was granted or denied and to determine whether a bond is required. If a State's Motion for Continuance is denied, the case will proceed to trial, plea, or other disposition.

### **5.2 Vacation Letters**

Attorneys shall file with the Clerk of the Court a vacation letter no less than 60 days prior to the anticipated date that the vacation is to begin. Such notices shall be filed by email to [www.desototexas.gov](http://www.desototexas.gov). If the vacation letter is not filed at least 60 days prior to the vacation commencement date, the Attorney shall file Motions for Continuance in each case set during the vacation period for the Judge to consider.

### **5.3 Motions to Withdraw**

Any Attorney who makes a written appearance on behalf of a Defendant shall be deemed the attorney of record for that Defendant until a written Motion to Withdraw is filed by that Attorney and is granted by the Court; or the case is disposed of by trial, plea, deferred disposition or attendance at a driver safety course, dismissal or substitution of counsel.

#### **5.3.1 Withdrawal without a Hearing**

A Motion to Withdraw as Counsel for Defendant may be granted without a hearing only if the moving Attorney files a verified certificate stating the last known mailing address telephone number, and email address of the Defendant (if available) and describes what efforts have been made to locate the Defendant. Additionally, Counsel may file along with the Motion to Withdraw a written consent to the withdrawal signed by the Defendant that acknowledges that the Defendant has been advised of all future court settings and sets forth the current mailing address, telephone number, and email address (if one exists) of the Defendant .

#### **5.3.2 Withdrawal with a Hearing**

If the requirements of Rule 5.3.1 are not satisfied, a Motion to Withdraw must be presented to the Court at a hearing after notice to the Defendant and to all other parties.

#### **5.3.3 Substitution of Counsel**

A Motion to Substitute Counsel shall be signed by the Attorney who currently represents the Defendant, as well as the Attorney who wishes to undertake representation of the Defendant. The Motion must include an affirmative statement that the Defendant has consented to the substitution. If a Motion to Withdraw as Counsel for Defendant also contains a Motion to Substitute Counsel, a Notice of Appearance by another Attorney, and a written agreement by the State, the requirements of Rule 5.3.1 are satisfied and the Attorney named in the Motion to Substitute will thereafter be considered by the court as Attorney of record for the Defendant.

#### **5.3.4 Requirements for Appearance as Co-Counsel**

Absent a motion for withdraw or substitution, an attorney may appear as co-counsel for the Attorney of Record. To appear a co-counsel, an attorney shall file with the Court a Notice of Appearance as Co-Counsel containing the signature of the Attorney of Record and the signature of the Defendant, or, in lieu of the signature of the Defendant on the Notice of Appearance as Co-Counsel, some other writing evidencing the authority of the Attorney of Record to associate another attorney to assist him/her in the representation of the Defendant shall be required. Upon the filing of the Notice of Appearance meeting the requisites of this 5.3.4., the Co-Counsel shall be deemed an attorney of record, subject to all of the rights, duties and responsibilities of the Attorney of Record under these Local Rules. However, the filing of a Notice of Appearance shall not relieve the original Attorney of Record of his/her responsibilities under the Local Rules.

#### **5.3.5 Affidavit of Intent to Surrender and Affidavit of Surrender**

Any Attorney wishing to be removed from the bond of a Defendant shall file the appropriate Affidavit under either Article 17.19 CCP (for Defendants who are not incarcerated) or Article 17.16 CCP (for Defendants who are incarcerated). Such Affidavit may be presented at any time prior to, or at, any hearing for the case.

#### **5.3.6 Motions for Discovery, Pre-trial, Trial and Post-Trial Motions**

All other Motions shall be filed with the Clerk of the Court in which the case is set.

All pre-trial motions shall be filed at least 14 days prior to trial date and responses thereto, if any, shall be filed at least 7 days prior to trial date. If a pretrial Motion has not been ruled on before the trial date, such Motion shall be heard on the date of trial. Each Motion or Response shall contain a certificate of service signed by the Movant or Respondent indicating that a copy of such Motion or Response has been served upon the opposing party, the manner of service and the date of service.

#### **5.3.7 Sua Sponte Order on Discovery**

In addition to and not in limitation of the provisions of Article 39.14 of the Code of

Criminal Procedures, all requests for discovery of audio and video recordings from the DeSoto Police Department shall be deemed timely made if they are made in writing on or before the first appearance date of the Defendant whether in person or by his/her attorney of record. All other requests for discovery, shall be deemed timely if they are made not less than 14 days prior to the date of the final trial setting. Thereafter, the Prosecutor shall produce to the Defendant, after redacting all personal information (i.e. driver's license numbers, social security numbers, and dates of birth) the following items not less than seven (7) days prior to the trial of the case:

- a. A list of the names and addresses of all witnesses the prosecution intends to call at trial. This list does not include any rebuttal witnesses that may be called by the prosecutor.
- b. A list of the names, addresses and professions of all expert witnesses the prosecution intends to call at trial, along with each expert's qualifications, the subject and a description of his or her contemplated testimony, and his or her report.
- c. All inducements offered by the state which might tend to motivate its witnesses to testify against Defendant, including, but not limited to, plea bargain agreements, fee, expense, or reward arrangements, agreements to dismiss or reduce or not bring charges, or any other agreement of leniency.
- d. All writings used to refresh the recollection of any witnesses, as provided in Rule 612 of the Texas Rules of Evidence.
- e. All written confessions, admissions and statements, made by Defendant to a police officer in connection with this case.
- f. All oral confessions, admissions and statements, made by Defendant to the state in connection with this case, which have been electronically recorded.
- g. The substance of all oral confessions, admissions and statements made by Defendant to the state in connection with this case, which were not electronically recorded.
- h. All statements, written or oral, electronically recorded or not, given by Defendant which are exculpatory or which tend to mitigate punishment.
- i. All statements of a nature as would be arguably admissible as a "res gestae" statement, spontaneous statement, or other utterance which the State intends to introduce in its case in chief, either during the guilt/innocence stage, or during the punishment stage.
- j. All witness statements as that term is used in Rule 615 of the Texas Rules of Evidence, whether in final, rough, draft, or other form.
- k. All statements made by any suspect, party or witness to this alleged offense which tend to exculpate Defendant or mitigate punishment.
- l. Offense reports, police reports, crime scene investigation reports or records or reports of any third parties, by way of written memoranda, letters, notes or transcriptions involving the alleged facts of the offense, the crime scene or any location which may have a bearing on any issue of the case.
- m. All hand-written, typed or otherwise recorded notes of law enforcement officers, relating to any part of this case (such as arrest, investigation, interrogation, interviews, or any other aspect) who investigated or participated in the preparation of this case for trial, enforcement agency or of

the Office of the District Attorney or otherwise, in connection with this case.

- n. All photographs, videotapes, audiotapes, drawings, charts and diagrams made by the state or law enforcement agency with reference to this case, including, but not limited to those of the scene of the crime and the scene of Defendant's arrest.
- o. All evidence in possession of, or within the knowledge of, the state or any of its agencies, including impeachment evidence, which is favorable to Defendant and material either to guilt or to punishment.

### **5.3.8 Prosecutor's Representations on Discovery**

Per the provisions of Article 39.14(j) of the Texas Code of Criminal Procedure, the City Attorney in his capacity as the Prosecutor in and for the Municipal Court of DeSoto represents that no documents, items, or information will have been provided to a defendant confined pursuant to an alias warrant or instanter citation issued out of the DeSoto Municipal Court prior to the defendant making a plea of guilty or nolo contendere. Further, absent a written request for discovery under Article 39.14 of the Texas Code of Criminal Procedure, the Prosecutor will not have provided to a defendant any documents, items, or information prior to the Court taking of a plea from the defendant at a first appearance or plea docket in the DeSoto Municipal Court of and concerning a violation set forth in the Texas Transportation Code.

Signed this 20<sup>th</sup> day of February, 2014.



\_\_\_\_\_  
Joseph Gorfida, City Attorney in and for the City of DeSoto  
Prosecutor in and for the DeSoto Municipal Court

## **RULE SIX: OFF-DOCKET PROCEDURES**

### **6.1 Off-Docket Motions**

An off-docket motion is any motion filed in a case not set on a docket, in which case, the Attorney shall file the Motion at the court offices at 211 E. Pleasant Run Road, DeSoto, Texas.

### **6.2 Open Courts**

Attorneys and Pro se Defendants may appear at the Court during the Court's hours of operation to dispose of cases with or without active warrants. Cases may be disposed of during the Court's hours of operation, when a Pro se Defendant wishes to enter a plea of guilty or no contest, present proof of compliance, request deferred disposition, defensive driving, or establish or reinstate a payment plan. The Municipal Court Judge has the discretion to require any case to be reset to permit the Prosecutor an opportunity to be heard on the case(s).

## **RULE SEVEN: ATTORNEY PLEA DOCKETS (“APD”)**

### **7.1 Attorney Plea Dockets**

The purpose of the Attorney Plea Docket (APD) is to resolve cases prior to trial and to set for trial those cases that cannot be resolved. Attorneys may obtain a copy of the upcoming docket from the Courts web site [www.desototexas.gov](http://www.desototexas.gov). It is the responsibility of the Attorney of Record to advise his/her client of the terms of judgment entered against the client as a result of a plea agreement. (See DLR 3.2)

### **7.2 Failure of Defendant to Appear**

If the Attorney of record for a Defendant does not appear at the APD, the judge may issue a warrant or forfeit any cash or surety bond that has been posted on the Defendant’s behalf. A Motion to Withdraw on any case set for the APD shall be filed prior to the APD or presented at the time of the APD and should comply with DLR 5 above. For surety bond cases, any Affidavit of Intent to Surrender or Affidavit of Surrender (for incarcerated Defendants) shall also be filed no later than the calling of the APD.

### **7.3 Reset to APD**

A case will not be reset to the APD without the permission of the Municipal Court Judge. All other cases must either be resolved at APD or set for trial. Any other exceptions will be determined by the Judge calling the APD docket. No case will be set for a jury trial without an appearance by an attorney of record at the APD. Once a case is set for jury trial, the Defendant’s appearance at each subsequent setting shall be required until the case is finally disposed of by way of the entry of a final judgment.

### **7.4 Attorneys to Appear Timely**

Any Attorney appearing at the APD on behalf of a Defendant shall appear timely at the start of the APD. Any Attorney not appearing at the start of the APD due to exigent circumstances shall give notice to the Court Clerk by telephone to (972) 230-9674 indicating the estimated time of arrival and reason for not appearing timely.

### **7.5 Posting of Attorney (Surety) Bond**

Per the provisions of Texas Occupations Code § 1704.163, a duly licensed Texas attorney executing a bail bond or acting as a surety for a Defendant shall be required to file a notice of appearance as counsel of record in the case for which the bond was executed or surety provided. The DeSoto Jail at 714 E. Beltline Road, DeSoto, Texas 75115, will have available Notice of Appearance forms for use by attorneys. Every case in which a bond was either executed or surety provided by a duly licensed Texas attorney shall be placed on the APD. (See DLR 3.3.1 above).



## **RULE EIGHT: TRIAL SETTINGS**

### **8.1 Docket Order**

Subject to the discretion of the Judge calling the docket, the order of cases actually proceeding to trial, whether bench trial or jury trial, shall be as follows:

- a. preferential settings
- b. cases set according to age, oldest first
- c. other circumstance as determined by the Court in the interest of justice.

All cases not reached for trial and not otherwise disposed of on a docket, will be noted as a Court's reset unless a reset was requested by a party and granted by the Court.

### **8.2 Preferential Setting**

To receive a preferential setting, subject to the Judge's approval, a party must meet one of the following criteria:

- a. reside more than one hundred (100) miles outside the city limits of DeSoto;
- b. have a condition, illness or injury that would necessitate an expedited disposition of the case; or
- c. have an outside witness who has appeared at least one prior trial setting without the case having been reached.

### **8.3 Defendants Must Attend Trial Dockets**

Every Defendant shall be present at the call of every **trial** docket, unless his/her attorney has filed and been granted a Motion for Continuance. Every Pro se Defendant shall be present at the call of his/her trial docket, unless he/she has filed and been granted a Motion for Continuance. Once a case has been set for trial whether by judge or jury, thereafter, the Defendant shall be present at every setting of the case until the case is finally disposed of by entry of a judgment. The Judge may issue a warrant for Failure to Appear for any Defendant who fails to appear at a trial docket without having been granted a continuance.

## **RULE NINE: JUVENILE PROCEEDINGS AND MINORS**

### **9.1 Juvenile Defined**

A juvenile is a Defendant who is at least 10 years of age and is younger than 17 years of age.

### **9.2 Entering a Plea**

A juvenile must enter his/her plea in open court with a parent or guardian present.

### **9.3 Notice of Current Address**

The parents and the juvenile have a continuing obligation to give written notice of their current address and any change of address.

### **9.4 Minor in Possession and other Alcoholic Beverage Code Violations**

A minor (anyone under the age of 21 years at the time of the alleged violation) may only enter a plea to an Alcohol Beverage Code violation in open court.

## **RULE TEN: POST TRIAL PROCEEDINGS**

### **10.1 Admonishment**

Pro se Defendants are admonished, due to the inherent complexities of appellate law, to seriously consider retaining counsel to represent them on appeal.

### **10.2 Inability to Pay Fines and Costs; Indigence; Community Service; Waiving Fines and Costs**

(a.) If a Defendant does not appeal the final judgment of the Court that orders the Defendant to pay fines and costs and thereafter defaults in the payment of the fines and costs as ordered because the Defendant claims that he/she is indigent, then the Defendant may request an indigence hearing before the DeSoto Municipal Court to determine whether or not the payment of the fines and costs ordered would impose an undue hardship on the Defendant (See Article 45.091 Texas Code of Criminal Procedure).

(b.) In order to request an indigence hearing, the Defendant shall complete and file with the DeSoto Municipal Court an affidavit of indigence containing the information set forth in the form of the affidavit of indigence found on the Court's website (Go to [www.desototexas.gov](http://www.desototexas.gov)), the form of which may be used by the Defendant to satisfy the requirements of this sub-section (b.) In addition, the Clerk of the court shall make available to a defendant or his/her attorney a blank copy of the affidavit of indigence posted on the court's website, upon request.

(c.) For purposes of the hearing on indigence under (a.) above, the Defendant shall be considered an indigent person if the Defendant provides the following evidence to the court:

(1) A copy of the Defendant's most recent federal income tax return that shows that the Defendant's income or the Defendant's household income does not exceed 125 percent of the applicable level established by the federal poverty guidelines;

- (2) A copy of the Defendant's most recent statement of wages that shows that the Defendant's income or the Defendant's household income does not exceed 125 percent of the applicable level established by the federal poverty guidelines; or
- (3) Documentation from a federal agency, state agency, or school district that indicates that the Defendant, or if the Defendant is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the Defendant as a dependent, receives assistance from:
  - (A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;
  - (B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;
  - (C) the medical assistance program under Chapter 32, Human Resources Code;
  - (D) the child health plan program under Chapter 62, Health and Safety Code; or
  - (E) The national free or reduced-prices lunch program established under 42 U.S.C. Section 1751 et seq.
- (d.) In the event that the Court finds that the Defendant is indigent, then and in that event, the Judge may waive the payment of fines and costs entirely; reduce the amount and frequency of payments; and/or require that the Defendant to perform community service under such terms and provisions that comply with Article 45.049 of the Texas Code of Criminal Procedure.

### **10.3 Indigence upon Appeal**

If a Defendant is indigent and unable to pay either the Appeal Bond or to pay for the transcript, he/she may file an Affidavit of Indigence with the Court and file a Motion to Waive Costs. Such Affidavit of Indigence and/or Motion to Waive Costs must be filed within the ten (10) day statutory period to file an appeal Bond. A hearing on the Motion to Waive Costs shall then be scheduled by the Judge who entered the Order being appealed, unless that Judge is no longer available.

## **RULE ELEVEN: MODIFICATION OF EX PARTE EMERGENCY PROTECTIVE ORDERS**

### **11.1 Court Responds to Requests from the Police Department**

Following the entry of an ex parte emergency protective order (hereinafter "order") for any length of time, the Judge shall not modify any of the protected addresses stated in an ex parte emergency protective order unless and until the DeSoto Police Department to makes a request in writing to the Judge to modify or change the protected address(es).

## **RULE TWELVE: ADMONISHMENTS ON FAMILY VIOLENCE**

### **12.1 Compliance with Article 27.14 (e)(1) Involving Family Violence**

Defendants charged with offenses involving family violence are hereby provided the following notice as required by the Texas Code of Criminal Procedure, which notice is incorporated by reference into each judgment involving family violence that is signed by the Court:

In compliance with Article 27.14 (e)(1) of the Texas Code of Criminal Procedure, Defendants charged with an offense involving family violence, as defined by Section 71.004, Family Code, are admonished as follows:

“If you are convicted of a misdemeanor offense involving family violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C., Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these law make it illegal for you to possess or purchase a firearm, you should consult an attorney.”

## **RULE THIRTEEN: SEVERABILITY AND CONSTRUCTION**

### **13.1 Severability**

If any provision of these Rules or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or application of these Rules, which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of the Rules are severable.

### **13.2 Inapplicability of Rules**

The *Rules* set forth herein are the Local Rules of Court applicable to criminal proceedings, and are applicable to the civil cases and administrative hearings heard in the DeSoto Municipal Court with the exception of DLR 3.3, DLR 7, DLR 9, and DLR 10.2.

### **13.3 Construction**

These Rules shall not be construed so as to enlarge, diminish, modify or alter the jurisdiction, power or authority of the Municipal Court of the City of DeSoto.

**ADOPTED**

The foregoing Local Rules of the Municipal Court of the city of DeSoto, Texas originally adopted on February 18, 2014, are hereby ADOPTED as most recently amended on August 8, 2016.

A handwritten signature in blue ink, appearing to read "Scott E. Kurth", written over a horizontal line.

**SCOTT E. KURTH, PRESIDING  
MUNICIPAL COURT JUDGE**