

# LOCAL RULES OF PRACTICE FOR THE SMYRNA MUNICIPAL - GENERAL SESSIONS COURT

Effective January 18, 2019

## **RULE 1 – AUTHORITY AND ABROGATION OF PRIOR RULES**

These rules shall govern the practice and procedure in the Smyrna General Sessions Court and are adopted under the authority of Tenn. Code Ann. §16-15-406. All former rules, if any, are abrogated unless adopted herein.

## **RULE 2 – SUSPENSION OF RULES**

Whenever the Court determines that justice requires, the Court may suspend any of these Rules.

## **RULE 3- CODE OF PROFESSIONAL RESPONSIBILITY**

The ethical standards for the practice and administration of law in General Sessions Court shall be governed by the Tennessee Court Rules Annotated, Rules of the Supreme Court, Rule 8, “Code of Professional Responsibility.”

## **RULE 4 - COURTROOM DECORUM**

- A. There will be no smoking, eating or chewing gum in the courtroom. Attorneys are allowed to have their cellphones and wireless devices in the courtroom but must be silenced while in the courtroom.
- B. At the opening of each session of court, everyone shall rise and remain standing while the court officer formally opens court. The area within the bar is reserved for attorneys, court personnel, and officers. All others shall be seated outside of the bar (excluding the area designated for prisoner transport).
- C. The behavior of all participants, attorneys, witnesses and spectators shall conform to strict standards of decency, dignity, etiquette and propriety. Everyone shall remove hats and sunglasses before entering the courtroom. Demonstrations, acts of misconduct, loud talking, or any disruption shall not be permitted inside the courtroom.
- D. All persons having matters before the Court, or otherwise in attendance, must be dressed appropriately, which shall exclude shorts, halter tops, bare midriffs, see-through attire, muscle shirts or tank tops, clothing with written or demonstrative obscenity, pornography or profanity. No clothing shall be allowed that exposes under garments or any intimate body part(s).

## **RULE 5 – COURT DOCKETS**

- A. The Court calendar is prepared by the Judicial Office bi-annually. The Calendar is published on the Town of Smyrna’s website:  
<https://www.townofsmyrna.org/departments/courts/court-calendar> . The schedule may be amended as needed to reflect holidays, vacations and court closures. Weather related court closures may be found on the Town of Smyrna’s website or by calling the Judicial Office at 615-355-5854, where announcements for closures and changes will be addressed.
- B. The dockets for the General Sessions Court shall be posted in a conspicuous place by the Clerk of the Court. The dockets can be found online on the Town of Smyrna’s website:  
<https://www.townofsmyrna.org/departments/courts/dockets>
- C. All defendants have the duty to:
  - (1) Know when they are scheduled to appear in court;
  - (2) Be physically present at each hearing, trial setting, subsequent settings, report dates or otherwise ordered by the Court, unless waived in advanced or relieved by the court.
  - (3) Failure to appear as set forth above may constitute contempt of court and may constitute a separate criminal offense for failure to appear.

## **RULE 6 – CONTACTING JUDGE / EXPARTE COMMUNICATION**

Neither counsel nor a party to a pending case will communicate ex parte with the Judge before whom the matter is pending consistent with the Rules of Professional Conduct and Code of Judicial Ethics. Attorneys may schedule conferences with the Judge to discuss personal or any other matters and are invited to do so.

## **RULE 7 – COUNSEL OF RECORD; ENTRY OF APPEARANCE; WITHDRAWAL**

- A. Attorneys and parties appearing before the Court are expected to appear at the designated time assigned. If an attorney is unable to appear on-time, said attorney shall inform the Court of the as soon as practicable.
- B. Appearance of counsel shall be made in one of the following ways:
  - (1) the filing of pleadings;
  - (2) the filing of formal notice of appearance;
  - (3) by appearance in open court, before pleadings are filed; or
  - (4) by an appointment by the Court.
- C. Attorneys may be allowed to withdraw for good cause and by leave of the Court upon written or oral Motion.

## **RULE 8 – COURT APPOINTED / SPECIAL APPOINTMENTS**

The Judicial Office will maintain the list of specially appointed attorneys. Special appointments are assigned by the Judge when the Public Defender has a conflict; when two or more co-defendants have been approved for an appointed attorney; or in the absence or unavailability of the Public Defender's Office.

## **RULE 9 - FEE PETITIONS FOR COURT APPOINTED ATTORNEYS**

All fee petitions shall be submitted directly through the Administrative Office of the Court's online procedure (I.C.E.). A copy of the order appointing counsel for an indigent defendant will be attached to the warrant provided by the Court Clerk to each appointed attorney. If the Public Defender is initially appointed but cannot represent the defendant due to a conflict of interest, the order will be amended to correctly show the appointed attorney.

## **RULE 10 - INITIAL APPEARANCE/ARRAIGNMENT**

The regular schedule of General Sessions Court has initial appearance/arraignment days on each Tuesday and Wednesday mornings except for holidays or special occasions. The defendant shall appear unless waived in writing by defendant's attorney. Attorneys may waive the defendant's initial appearance by filing a Waiver of Arraignment with the Judicial Office. A motion and order for Waiver of Arraignment may be requested from the Judicial Office or at [town.court@townofsmyrna.org](mailto:town.court@townofsmyrna.org).

At the initial appearance, the Court shall:

- A. Read rights to each criminal defendant as set out on the plea forms.
- B. Give each defendant the opportunity to complete a form to request a court appointed attorney. The Court will rule on this issue prior to the defendant leaving the courtroom. If the defendant does not fill out a form on the date of the initial appearance, the defendant may be deemed to have waived counsel. The defendant must be ready to proceed on the date of the hearing.
- C. Address issues regarding bond for incarcerated defendants.
- D. Give each defendant the date, time and location of his/her next discussion date or preliminary hearing.

### **RULE 11 – MISDEMEANOR CITATIONS**

- A. A person is issued a misdemeanor citation in lieu of continual custody. By accepting the citation, they agree to appear at the Smyrna Police Department prior to court to be booked and processed.
- B. If the person cited fails to appear on the date and time specified, the court shall issue a warrant for the person's arrest.
- C. The specified date and time will be for booking and their first initial court appearance.
- D. At this initial appearance a person will be advised of the process to apply for public defender, retain private counsel or the process to speak to an Assistant District Attorney.
- E. The booking/court date is mandatory and will not be waived.
- F. The booking/court date may only be continued for compelling circumstances of illness, death in family or like problems. Appropriate documentation may be required.

### **RULE 12 – DOMESTIC (DV) DOCKET**

- A. All domestic cases are set to be reviewed by the Domestic Violence Assistant District Attorney (ADA) assigned by the DA's Office.
- B. This DV docket is held on Wednesday at 1:00pm for all settings (initial appearance, jail, discussion or hearing) except holidays or special occasions.
- C. Bond Conditions are set on the docket with the corresponding criminal charge(s). If one wishes to modify bond condition, a petition must be filed with the Court Clerk for a date earlier than the court date assigned. ADA requires 5 days notice unless they agree to a shorter time frame.
- D. The Court will conduct special set hearings on Mondays and Fridays when available.

### **RULE 13 – COMPLIANCE DOCKET**

The Court may place Defendants on a Compliance Review Docket, after pronouncing judgment, for the following reasons:

- A. The Defendant has been found by the Court to have a present financial inability to pay in full all fines and costs due. The Court may order the defendant to set up a payment schedule with the Clerk of the Court with full payment by a date certain. Defendants who fail to pay fines by the designated term may be subject to any garnishment or collection agency as deemed by the Clerk of the Court;
- B. The defendant has been ordered into treatment, to make restitution, or to complete a program or school, as condition of their plea;
- C. The defendant has been placed on unsupervised probation; or

- D. At the Court's discretion.
- E. If the defendant fails to appear at the Compliance Review and has not completed the necessary requirements, the Court may issue a bench warrant for failing to appear to show compliance.

**RULE 14 – DIVERSION AND RETIREMENT RETURN:**

When a Defendant is granted a Judicial Diversion or Retirement, a date will be given to the Defendant when they are required to return to court to confirm all conditions are complete.

If the Defendant is represented by Counsel at plea and the diverting/retiring charge is **NOT** a domestic related offense, in lieu of personal appearance by the defendant, Counsel may submit a letter of compliance one week prior to the return date stipulating all conditions are complete.

If the diverted/retired offense is a domestic related offense, the Defendant **shall** appear on the return date to personally appear before the Court. If all the required conditions are complete, the Defendant is directed to the Clerk of the Court to inquire about expunction of the charges.

- A. If a Defendant does not complete the conditions or fails to appear in court on the Diversion Return date, a bench warrant may be issued for the defendant's arrest.
- B. If a Defendant has successfully completed all conditions but fails to appear on the return date designated by the Court, the Defendant may file a motion to be placed on the docket to show the conditions are complete.
- C. After any case(s) are dismissed by the Judge, the Defendant is directed to inquire with the Clerk of the Court about expunction of the charge(s).

**RULE 15 – DORMANT CASES**

The Court, on occasion, may take reasonable measures to purge the docket of old cases where the cases have been dormant with cause for an extended time.

**RULE 16 - MUNICIPAL COURT TRAFFIC CITATIONS**

- A. Municipal Court Traffic Citations issued at the time of a criminal arrest or misdemeanor citation, will remain in the jurisdiction of the Municipal Court and do not automatically transfer or track with the Smyrna General Sessions Court criminal case.
- B. The Court will entertain, by motion, a request to consolidate a Municipal Court Citation with the General Sessions criminal case. Counsel must first contact the Court Liaison and establish a date for a hearing and the officer to be present for both the criminal case and the citation. The citation shall be resolved within 120 days to ensure not to surpass the deadline by the Department of Homeland Security.

## **RULE 17 – COURT LIAISON**

- A. The Smyrna Police Department has established a Court Liaison as a single point of contact for integral parts of the Court System in lieu of officers attending court sessions unnecessarily. The Court Liaison maintains the case files for the patrol division and will facilitate when officers' appearances are required in court. The Court Liaison will assist at all stages of the case with securing officers for the necessary court dates.
- B. The next available discussion date with the Assistant District Attorney may be obtained from the Office of the Court Liaison 615-267-5152 or the Judicial Office 615-355-5854.
- C. Attorneys may contact the Court Liaison to inquire about obtaining videos for evidence or requiring an officer for a hearing in the Smyrna General Sessions Court.
- D. The Court Liaison will assist the Assistant District Attorneys with arrest reports, information for possible restitution, TBI Lab submissions, statements or pictures or any other information in the police case file that may benefit in facilitating the prosecution of the case(s).

## **RULE 18 - CONTINUANCES**

- A. Motions for continuance, prior to a court date, may be granted by the Judge by contacting the Office of the Court Liaison to secure the next available date. In the event the Court Liaison is not available to secure a reset date, the Judicial Office will assist Attorneys with the reset date.
- B. Attorneys are required to submit a motion and an order after securing the reset date from the Court Liaison. Motions for continuance should be accompanied by an order, and served on all parties.
- C. Once securing the date from the Court Liaison, motions and orders may be emailed or faxed to the Judicial Office **FIRST** to secure the Judge's signature. Upon receipt they will be stamped received by the Judicial Office. Once the Judge signs the order, the Judicial Office will *forward the motion and signed order to the Clerk of the Court for filing*.
- D. Attorneys may request a copy of the FILED signed order from the Clerk of the Court at 615-355-5739 or via email [staff.courtclerk@townofsmyrna.org](mailto:staff.courtclerk@townofsmyrna.org)
- E. When an attorney is requesting a reset in Court, the reset date will be obtained from the Court Liaison. The Court Liaison will need to be advised if the matter is being reset for a bench trial or preliminary hearing. The Court Liaison is responsible for internal SPD officer(s) subpoena. The court case file is marked by the Court Liaison stipulating reason for reset and marked accordingly. The Court Liaison will direct the file into the Court.
- F. The arresting officer is generally not present for the first discussion date with the Assistant District Attorney and defense counsel. If counsel wishes the arresting officer to be present, they shall contact the Court Liaison.

- G. Once officers, witnesses, and victims have been subpoenaed for hearing, the case will be continued only for compelling reasons.
- H. Clerks of the Court are not authorized to grant continuances.
- I. Unless good cause is shown, all cases shall be disposed of within 120 days.

## **19 - SUBPOENAS**

- A. Domestic Violence cases shall have a subpoena issued by an officer at the time of arrest unless extraordinary circumstances exist. These cases are preferred to be set and heard within 10 days from the time of the arrest.
- B. In all cases involving a victim, the Court Clerk shall issue subpoenas after the arraignment date for the next docket setting of the matter.
- C. After personal service of a subpoena, subsequent notice may be by mail, phone or in open court. No further personal service is necessary unless the case is re-docketed for the issuance of a capias.
- D. An attorney requesting a subpoenaed shall contact the Clerk for the issuance and pay any applicable fees for the issuance and service. If they desire, the attorney may also utilize their own process server for service.

## **RULE 20 – INTERPRETER(S)**

- A. An individual has the right to an interpreter at no cost to the defendant.
  - 1. The language spoken by an individual must be determined;
  - 2. A Credentialed Interpreter will be appointed at the discretion of the court. The court is responsible for determining whether a participant has limited ability to understand and communicate in English;
  - 3. The Court will attempt to locate a Credentialed Interpreter and will be requested in the following manner, Certified, Registered then Non-Credentialed.
- B. The Court has a Spanish Interpreter reserved for two (2) morning arraignment dockets a month and every afternoon discussion docket, unless special circumstances arise.
- C. Cases may be reset to secure the appropriate Credentialed Interpreter and this continuance will not be charged against the defendant.

## **RULE 21 – PROBATION VIOLATION**

Failure of a defendant to complete any condition of probation as ordered may result in the defendant being charged with a violation of probation. The case shall be set back on the Court's regular docket for a hearing before the Judge who sentenced the defendant and may result in the defendant serving the jail sentence. Defendants are expected to fully comply with all conditions of probation and cooperate with probation officers.

## **RULE 22 – APPLICATION FOR RESTRICTED LICENSE**

- A. A Tennessee Department of Safety and Homeland Security Restricted License Application may be obtained in Court, at the time of plea, or in the alternative, from the Judicial Office.
- B. If an application is made on the day a DUI plea is entered, the defendant's driving status must valid on that date. The Attorney or the Defendant may then request the application be signed by the Judge at that time.
- C. In the alternative, a defendant may make application at the Judicial Office any time during the revocation period for the DUI conviction.
- D. After the order is signed by the Judge, the Defendant shall have the application certified by the Clerk of the Court and pay any applicable fees. Once signed by the Judge, the Defendant has only 10 days to complete the process with the Department of Safety. All necessary directions for completing the process are detailed on the back of the application provided by the State.

## **RULE 23 – JUDICIAL COMMISSIONERS**

Judicial Commissioners may sign warrants for prosecutions initiated by private citizens, but only if a police report or offense report has been filed with appropriate law enforcement agency. A copy of the police report must be presented to the Judicial Commissioner on duty by the complaining individual before the warrant is signed.

## **RULE 24 - ORDERS OF PROTECTION**

By Administrative Order issued November 4, 2016, ..."the Court finds that judicial commissioners of the Town of Smyrna shall be authorized to issue *ex parte* orders of protection upon a finding of "immediate and present danger of abuse" pursuant to Tenn. Code Ann. §36-3-601, *et seq.*

The Judicial commissioners are authorized to issue the *ex parte* order of protection "after 3:00 p.m. on any judicial day or at any such time that a trial court judge is otherwise unavailable."

The Judicial Office has been deemed a satellite office for individuals wishing to inquire about an order of protection. If the Respondent or the incident occurred within the city limits of the Town of Smyrna, a petitioner may inquire at the Judicial Office for a petition.

## **RULE 25 - MEDIA COVERAGE**

- A. Media requests for coverage of particular proceedings shall be made in writing to the Judge no later than three (3) business days before the case is set to be heard. The Judge shall determine, what, if any media coverage is allowed. The Judicial Office will notify all counsel of record of the request for coverage.
- B. Media pooling is the preferred method if multiple media agencies are requesting coverage. This may be directed to the Town of Smyrna Media Services for organization of pooling thru the Town of Smyrna.
- C. All equipment shall be installed before the Court commencement of the proceeding to be covered. Photographic equipment shall be suited so as to produce the point of view of the audience.
- D. In all remaining aspects, media coverage of courtroom proceedings shall be governed by the letter and intent of Tennessee Supreme Court Rule 30.

## **RULE 26– LOCAL RULES FOR BONDSMEN**

See: Local Rules for the Chancery & Circuit Courts for the 16<sup>th</sup> Judicial District of Tennessee.

Helpful links:

<https://www.tncourts.gov/expungements>

<https://www.tncourts.gov/programs/self-help-center>

<https://www.tncourts.gov/media/glossary-legal-terms>

