LOCAL RULES OF COURT
CARROLLTON MUNICIPAL COURT

Pursuant to the authority of Art. 45.203(b), Texas Code of Criminal Procedure, the following Local Rules of the Carrollton Municipal Court are hereby adopted, effective 08/01/12.

RULE 1: COURTROOM DECORUM

1.1 **Order**. The Court shall maintain proper order and decorum. The Court shall require all litigants, jurors, witnesses, attorneys, and others with whom the judge deals in an official capacity, to conduct themselves in a respectful manner. Violation of any portion of Rule 1 may result in a reprimand from the judge, expulsion from the courtroom, or a charge of contempt.

1.2 **Talking**. No one may talk while the judge is talking. Unless a party is making a legal objection in a proceeding, only one person may speak at a time. Participants shall address each other in a respectful manner. No "sidebar" comments will be allowed. No loud, profane or disruptive talking will be allowed.

1.3 **Weapons**. Absolutely no weapons of any type shall be brought into the courtroom, except if a weapon is intended to be offered as evidence in a pending matter. Commissioned peace officers acting in their official capacity may bring weapons into the courtroom. The judge shall have the discretion to have any object removed from the courtroom.

1.4 **Food, Drinks, Gum, Tobacco Products**. No food, drinks, gum chewing, or tobacco products, including "e-cigarettes" is allowed in the courtrooms, except with permission of the judge. The use of tobacco products, including "e-cigarettes," is prohibited in all areas of the Carrollton Municipal Court building.

1.5 **Dress**. Shorts, very short dresses or skirts, halter tops, tank tops, shirts that reveal excessive cleavage, muscle shirts, undershirts, t-shirts with indecent, profane, obscene words, language, graphics or illustrations, "sagging" pants, or gang related clothing are **PROHIBITED** and **WILL NOT BE ALLOWED** in the courtroom. Defendants who appear in prohibited attire will be turned away and will be required to post a cash bond for a new court date.

1.6 **Hats**. No hats, bandanas, do-rags, or any head covering shall be worn in the courtroom, except with permission of the judge.

1.7 **Reading Material**. Reading by non-participants shall not be permitted in the courtroom if it causes noise or other distractions to participants.

1.8 **Electronic Devices**.

(a) Electronic devices of any kind are **NOT ALLOWED** in the courtroom. If an electronic device is brought into the courtroom, the electronic device shall be confiscated by the bailiff or marshal and will only be returned at the end of court proceedings. Further, the individual may be held in contempt of court, which could result in a $100.00 fine and/or 3 days in jail.

(b) Attorneys may bring an electronic device into the courtroom; however, it must be turned off during any court proceeding. If an attorney needs to use his/her electronic device, the attorney shall leave the courtroom to use the device in the lobby of the Municipal Court, except when speaking with a clerk about a reset or with the express consent of a judge.

1.9 **Seating**. All persons in the courtroom shall be seated except when addressing the judge or jury, or when directed to rise by a court officer, or with the permission of the judge.

1.10 **Docket Times**. Dockets shall begin promptly at the scheduled times. All parties are expected to arrive on time to court proceedings. Parties who arrive late will be counted absent by the Court.

RULE 2: APPEARANCES AND ENTRY OF PLEA

2.1 **Written Plea**. All pleas shall be in writing, except for pleas entered in open court before a judge. A fine payment shall constitute a plea of "no contest" (nolo contendere) as allowed by law. Telephone calls DO NOT constitute an appearance.

2.2 **Requests for Assistance**.

A. A request for a language interpreter for trial proceedings should be made in writing at the time a plea of "not guilty" is entered.
B. Requests for assistance from persons with disabilities should be made at the time the plea is entered or at Defendant's first court appearance.
C. Requests for visual or audio aids should be made at least 14 days prior to trial so that arrangements can be made for the proper equipment to be available. If the court does not have the requested equipment available, the Defendant will be notified and it will be Defendant's responsibility to ensure the proper equipment is available on the day of trial.

2.3 **Plea by Mail.** Pleas by mail should be received by the court by the appearance date on the citation, summons, or notice to appear. The date the mailed plea is received by the clerk's office shall be designated as the filing date of any plea. Failure to respond by the appearance date on the citation may result in a warrant being issued.

2.3(a) **Adult Defendants**. If an adult Defendant (age 18 and older) wishes to enter a plea by mail, the plea must be received on or before the appearance date on the citation, summons, or notice to appear.

2.3(b) **Minor Defendants**. Minor Defendants (age 17 – 21) may enter a plea by mail on all violations except those involving tobacco violations or alcohol violations.

2.3(b)(1) **Tobacco Violations**. A minor Defendant under age 18 who is charged with a tobacco violation MUST personally appear in Court to enter a plea, even if represented by an attorney.

2.3(b)(2) **Alcohol Violations**. A minor who is charged with an alcohol violation MUST personally appear in court to enter a plea of "guilty" on an alcohol charge, even if represented by an attorney. A minor who is represented by an attorney is not required to personally appear with his/her attorney before a judge in open court to enter a plea of "not guilty" or "no contest." *Texas Alcohol and Beverage Code, Sec. 106.10*.

2.3(c) **Juvenile Defendants**. Juvenile Defendants (under age 17) may not enter a plea by mail. Juvenile Defendants MUST appear before a judge in open court with a parent or legal guardian to enter a plea on any type of violation. A juvenile Defendant who is represented by an attorney MUST appear before a judge in open court with a parent or legal guardian to enter a plea. Juvenile Defendants who appear without a parent or legal guardian will have their case(s) reset for another appearance date.

2.3(c)(1) **Notice of Current Address**. Juvenile Defendants and their parent(s) or legal guardian(s) have a continuing obligation to provide the Court written notice of the child's current address.

2.4 **Plea by FAX.** The date of receipt of a FAX by the clerk's office shall be designated as the date of filing of any plea.

2.5 **Defendant Appearance.** A Defendant who is not represented by an attorney must timely appear at all court settings of his/her case(s). An arrest warrant may issue if a Defendant fails to appear at any court setting.

2.6 **Attorney Representation**. An attorney seeking to represent a Defendant must file a written notice of representation with the Court. The notice shall contain the client's name, the citation number, the violation, the date of violation, and Defendant's plea. The attorney who files a notice of representation shall be considered the attorney of record and must appear with the Defendant at all pre-trial hearings and trial settings.

2.7 **State's Attorney**. At least one prosecuting attorney shall be present at the following types of docket settings:

- Alcohol Motion;
- Attorney Motion;
- Juvenile Non-Traffic (Tobacco and Alcohol);
- Ordinance/Corporate Summons;
- Non-Traffic Motion;
- Pre-Trial (Pro Se and Attorney); and
- Trial (by Jury and by Court).

2.8 **Appearance in Bond Cases.** A Defendant who has posted a bond must appear at all court settings. In cases where Defendant is represented by counsel, the Defendant must appear at all attorney plea, pre-trial and trial settings unless appearance is waived by the State, or if the case is to be finally settled at the next setting.

2.9 **Failure to Appear.** If a Defendant fails to appear, a cash bond must be posted in order to have the case reset, unless waived by a judge for good cause shown.

2.10 **Change of Plea Before Trial**. If a Defendant wishes to change a "not guilty" plea to either "guilty" or "no contest" (nolo contendere), the Court must receive the plea and waiver of trial at least three (3) business days before the scheduled trial date if the Defendant wishes not to appear on the date of trial, and the Court shall dispose of the case. Any change of plea and waiver received after three (3) days before the scheduled trial date will require the Defendant to appear on the scheduled trial date.

2.11 **Media Access.** As a general rule, broadcast media will not be allowed to record any court proceeding. Any exceptions may be made by the judge presiding in each particular case.

RULE 3: NOTICE

3.1 **Responsibility.** It is the responsibility of all persons with business before the court to:

a. Ascertain the date, time and nature of each setting of case(s); and
b. Update or notify the court of any change of address.

3.1(a) **Attorney Responsibility.** It is the responsibility of the attorney of record to ensure that the court has current contact information for the attorney.

3.2 **Notice.** Notice of the date, time and nature of each setting shall be given to each party in writing, in person or by mail, to the last known address of a party or counsel. A copy of each notice shall be included in the papers of the case.

3.3 **Verbal Representations.** Reliance upon verbal representation from any court personnel concerning any matter shall not be considered grounds for continuance, setting aside of a warrant or any other relief. Reliance upon a police officer's verbal statements regarding disposition of an offense is not binding upon the court.

3.4 **Complaint.** A copy of the complaint will be made available to the Defendant or counsel upon request to the clerk of the court. A complaint will not be required until a plea of "not guilty" is entered by Defendant or a case is scheduled for a pre-trial setting.

RULE 4: MOTIONS

4.1 **Motions for Continuance.** Motions for Continuance require reasonable basis in fact and will not be granted for delay purposes. "General" Motions for Continuance are not adequate. Continuances are governed by Chapter 29, *Texas Code of Criminal Procedure*, and this order is intended only to augment applicable law.

A. All Motions for Continuance shall be in writing and shall be filed by the Movant at least seven (7) business days prior to the scheduled court appearance date with the Clerk of the Carrollton Municipal Court. Movant must provide copies of a filed Motion for Continuance to all parties in the case and also the Court. The Court in which the case is set shall rule on the Motion for Continuance, and rulings on such motions shall be at the discretion of the judge.

B. Each Motion for Continuance shall contain:
    1. The citation number (cause number) and name of the Defendant;
    2. The date and time of the court setting requested to be continued;
    3. The requested date for a new court setting, if any;
    4. The specific facts or reasons justifying the continuance and supporting documentation, if any;
        A. If the conflict involves another court date with counsel of record, counsel shall list the court number and location, cause number and style of the case, and date and time of court setting.
    5. A certificate of service indicating how the motion was communicated to the non-moving party (by regular mail to pro se Defendants or via fax to counsel of record of represented Defendants); and
    6. An oath attesting to the truth of the matters and information contained in the Motion for Continuance.

C. Non-moving parties who oppose a Motion for Continuance must submit a response, in writing, detailing the opposition to the Motion for Continuance at least three (3) business days prior to the scheduled court appearance with the Clerk of the Carrollton Municipal Court. The non-moving party must provide copies of the response opposing the Motion for Continuance to all parties in the case, and also the Court. An unopposed Motion for Continuance may result in a case being continued at the discretion of the Court.

D. **Provided a Motion for Continuance complies with the above requirements, motions for continuance that pertain to a <u>first appearance</u> on a plea docket will be routinely granted unless a motion opposing the continuance is filed. "Plea dockets" for these purposes include *only* the Attorney Docket and the Pro Se Pre-Trial Docket.**

4.2 **<u>Emergency Motions For Continuance</u>**. Emergency Motions for Continuance may be filed at any time prior to a scheduled court setting and only when the reasons for the continuance could not have been discovered or ascertained through the exercise of due diligence at least seven (7) business days prior to the scheduled court appearance date. Emergency Motions for Continuance will be ruled on by the Court no later than on the date of the scheduled court appearance.

4.3 **<u>Factors in Determining Whether to Grant Motions for Continuance</u>**. Except in cases where constitutional or statutory continuances are sought, below are some of the factors that may be considered when determining whether to grant or deny a Motion for Continuance:

1. If a scheduling conflict is raised, the specific nature of the scheduling conflict and facts that may indicate when the Movant became aware of the scheduling conflict;
2. The amount of time elapsed between the offense date and the most current court setting;
3. The number of continuances previously granted to each party;
4. The timeliness with which the Motion for Continuance was filed; and
5. A party's filed response in opposition to the continuance from the non-moving party, if any.

4.4 **<u>Denied Motion for Continuance</u>**. If a Defendant's Motion for Continuance is denied, Defendant may be required by the Court to post a bond to avoid a warrant being signed in the case. Defendant is responsible for ascertaining whether his/her Motion for Continuance was granted or denied, and whether a bond is required. If a State's Motion for Continuance is denied, the case will proceed to appropriate disposition.

4.5 **<u>Forum</u>**. In all cases the ruling on a Motion for Continuance shall be at the discretion of the judge to whom it is presented. A subsequent motion for the same setting shall be presented to the judge who denied the original motion, if practicable.

4.6 **<u>Motions to Withdraw</u>**. Any attorney who makes an appearance on behalf of the Defendant or represents to the court that he/she is the attorney of record shall remain the attorney of record until a Motion to Withdraw as Counsel or a Motion to Substitute Counsel is granted by the judge.

4.6(a) <u>Without a Hearing</u>. A Motion to Withdraw as Counsel of record will be granted without a hearing only if the moving attorney:

a. files a certificate stating the last known mailing address of the Defendant, AND

b. files a written consent to the withdrawal signed by the client, OR
c. includes in the motion a specific statement:
    1. of the circumstances that prevent the moving attorney from obtaining the client's written consent; AND
    2. that the client has been notified of the attorney's intent to withdraw by forwarding a copy of the motion to said client.

4.6(b) With a Hearing. If all requirements of Rule 4.6(a) are not satisfied, a Motion to Withdraw as Counsel must be presented at a hearing after notice to the Defendant and to all other parties.

4.7 **Substitution of Counsel**. If a Motion to Withdraw as Counsel also contains a Motion to Substitute Counsel and a Notice of Appearance by another attorney, and the motion contains written agreement from the State's attorney, that appearance will satisfy the requirements of Rule 4.6(a), and the attorney named in the Notice of Appearance will be considered by the Court as attorney of record for the Defendant.

4.8 **Motion for Discovery**. If a Defendant or an attorney of record wants any reports, documents, papers, photographs, video, or any other information pertaining to their case, the Defendant or attorney of record may file a motion for discovery. The motion shall comply with Art. 39.14, Texas Code of Criminal Procedure. The motion must be filed no later than 14 days prior to the scheduled pre-trial setting, and the court will rule on the motion at that time. Discovery issues not raised at the pre-trial setting cannot be raised on the day of trial unless the judge determines good cause exists to consider the issue(s) on the day of trial.

4.8(a) **Requests for Disclosure After January 1, 2014.** Requests for disclosure pursuant to Art. 39.14, Texas Code of Criminal Procedure for offenses committed on or after January 1, 2014 shall be in writing and presented to the State's Attorney and filed with the Clerk of the Carrollton Municipal Court for inclusion in the Court's file. Unless good cause is shown, requests for disclosure shall be made and filed not later than 14 days prior to a scheduled pre-trial hearing. The State shall determine if the State or any agent of the State has possession, custody or control of the requested material, and the State shall respond in writing, filed with the Clerk of the Carrollton Municipal Court no later than 7 days prior to a scheduled pre-trial hearing. If a request for disclosure is not made or is not made timely, the Defendant declines to review the evidence, if any, in the case.

4.9 **Motion in Limine**. Motions in limine shall be filed before or at the time of trial, and the Court will conduct a hearing on said motion.

4.10 **Other Pre-Trial Motions**. Any other pre-trial motions must be filed no later than seven (7) days prior to the scheduled pre-trial setting, and the court will rule on the motion at or before the scheduled pre-trial setting.

4.11 **Responses to Motions**. Parties may file responses to any motions. A party wishing to respond to any motion should file his/her response as soon as possible with the court clerk. Unless a pre-trial hearing is specifically requested in a motion and set by the court, the judge may rule on any motion at any time.

RULE 5: PRE-TRIAL HEARINGS

5.1 **Attendance Required**. All pro se Defendants who have a case pending in the court are required to attend all pre-trial hearings. Defendants who are represented by counsel who have a case pending in the court are required to attend all pre-trial hearings with their attorney of record.

5.2 **Motions**. Pre-trial motions shall be filed in writing in all cases where a Defendant claims there are legal issues involving the sufficiency of the criminal complaint or the law from which the complaint is drawn.

5.3 **Hearings**. No more than one pre-trial hearing shall be set per case without leave of the Court. Failure to file pre-trial motions as indicated herein shall constitute a waiver of having those issues heard before trial.

5.4 **Deadline to File**. Unless leave of Court has been granted, all pre-trial motions shall be filed at least seven (7) days prior to the pre-trial setting. Such motions shall be heard at or before the scheduled pre-trial setting, unless otherwise set by the Court.

5.5 **Service**. It shall be the responsibility of the party filing any pre-trial motion to serve opposing counsel or party with a copy of the motion within three (3) days of the filing of said motion. Service may be made by hand delivery, certified mail, or FAX.

5.6 **Setting the Hearing Date**. If a special setting for a pre-trial hearing is requested, it shall be the responsibility of the party filing any pre-trial motion to obtain a hearing date from the Clerk of the Court.

5.7 **Subpoena/Evidence**. The State is responsible for the appearance of all necessary witnesses in response to a Defendant's motion to suppress evidence. In all other cases, each party shall be responsible for summoning its own witnesses, with or without subpoenas, and obtaining any physical evidence.

5.8 **Cases Not on Docket**. Cases that are not scheduled for a docket will not be handled "off-docket" during a court setting. "Off-docket" cases must be scheduled for a future docket setting.

RULE 6: TRIAL SETTINGS

6.1 **Trial Request**. A plea of "not guilty" may be made at the Defendant's first appearance in court or by written request prior to the first appearance date on the citation.

6.2 **Current Address**. Pro se Defendants shall provide the court with a current mailing address and a current telephone number. Attorneys of record shall provide the court his/her name, current office and mailing address, current telephone number, FAX number (if any), and bar card number. If a Defendant or attorney changes his/her address or telephone number prior to trial, they are required to immediately notify the Court of the change.

6.3 **Change of Plea Before Trial**. If the court receives a written, signed plea and waiver at least three (3) business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the Defendant UNLESS the Defendant is a minor with an alcohol violation and falls within Rule 2.3b.

6.4 **Waiver of Jury Trial**. If a Defendant waives a trial by jury in writing, the Court shall hear and determine the cause without a jury. *Texas Code of Criminal Procedure Art. 45.025*.

6.5 **Jury Trial**. Unless otherwise scheduled or ordered by the judge, all jury trials will begin promptly at 8:30am on the scheduled day. Defendant and Defendant's attorney (if Defendant is represented by counsel) are required to appear at the court at that time.

6.6 **Non-Jury (Bench) Trial**. Non-jury trials will begin promptly at either 1:00pm or 8:00am on the scheduled day. Defendant and Defendant's attorney (if Defendant is represented by counsel) are required to appear at the court at that time.

6.7 **Announcement**. All cases set on trial dockets will be called at the time for which they are set. All parties are expected to announce "ready" or "not ready" for trial at that time.

A. If the Defendant, without good cause shown, fails to announce "ready" for trial at the time the case is called to trial, the Court will enter a plea of "not guilty" on the Defendant's behalf and proceed with the trial.

B. If the State, without good cause shown, fails to announce "ready" for trial at the time the case is called to trial, the Court will dismiss the case.

6.8 **Failure to Appear**. If a Defendant and/or defense attorney is not present in the courtroom at the time the case is called to trial, the Court may issue a warrant for the Defendant's arrest. If an attorney fails to appear, the arrest warrant will be issued in the name of the Defendant. The Defendant will be required to post a bond in the total amount of the fine, court costs, and any other fees unless the Defendant or defense attorney can show good cause for failure to appear.

6.9 **Preferential Setting**. The Court may, at the request of either the State or Defendant, or on its own motion, specially set a case for trial on the merits.

RULE 7: POST-TRIAL PROCEDURES

7.1 **Motion for New Trial**. A motion for new trial must be filed in writing with the court not later than the tenth (10th) day after the date on which judgment is rendered. *Texas Government Code Sec. 30.00014.*

7.2 **Appeal Bond**. An appeal bond is required to perfect an appeal from the Municipal Court. The amount of the bond must be two times the amount of the fine and costs adjudged against the Defendant. All appeal bonds require the signature and address of the Defendant and must be in compliance with Chapter 17, Texas Code of Criminal Procedure. An appeal bond must be approved by the Court and must be filed not later than the tenth (10th) day after the date the judgment was entered. *Texas Code of Criminal Procedure Art. 45.042, 45.0425.*

7.3 **Inability to Pay Fine.** If a Defendant does not appeal the Court's decision but is financially unable to pay the fine when due, the Defendant must appear at the Court's Collections Department to complete an application for a time payment plan or community service. If the Defendant qualifies for a time payment plan or community service, the Court may allow the Defendant to either pay the fine in installments or discharge the fine by performing community service.

7.4 **Capias Pro Fine**. If a Defendant does not pay a fine in full, or does not meet all obligations of an installment payment plan or does not discharge the fine by performing community service as ordered by the Court, a *capias pro fine* will be issued which will subject the Defendant to arrest and confinement in jail until the *capias pro fine* is paid in full either by payment of the entire amount owed or by serving time in jail until the full amount is paid through jail time credit.