

# BELLINGHAM MUNICIPAL COURT LOCAL COURT RULES

## RULE 1

### DELEGATING AUTHORITY TO CANCEL WARRANTS AND FTA'S, AND RESCIND DELINQUENT CHARGES

In addition to the Judge, Court Commissioner, and Court Administrator, the following Court personnel are hereby granted authority to allow the rescheduling of time payments, to cancel arrest warrants issued for Failure to Pay fines or costs as agreed; and to rescind delinquent charges on warrants and FTA's reported to the Department of Licensing: Acting Court Administrator, Judicial & Support Services Manager.

## RULE 2

### MANDATORY APPEARANCE AND PLEADINGS BY ATTORNEYS DEFINITION OF NEXT COURT DAY FOR DOMESTIC VIOLENCE AND DUI, PHYSICAL CONTROL CHARGES

Pursuant to CrRLJ 3 & 4, an attorney may enter an appearance and/or plea of not guilty on behalf of a client in any criminal or traffic offense, if said appearance or plea is made in writing or made in open court unless the defendant is charged with domestic violence, driving while under the influence or physical control, in which instances the defendant must appear personally before the court for arraignment in order to properly determine any pre-trial conditions of release, or bail, which may be appropriate.

Unless previously commenced by an appearance made in open Court, when a written appearance is authorized it shall commence the running of the time periods established in CrRLJ 3.3 from the date of receipt by the Court. A Written appearance, waiving an arraignment, but without plea, shall be considered a plea of not guilty, made in writing, or in open Court, and obviates the need for further arraignment and waives any defects in the complaint other than failure to state a crime. Telephonic requests or notice by defendant or defense counsel shall not constitute an arraignment, appearance or plea, and shall not commence the time periods under CrRLJ 3.3.

Personal appearance at arraignment by a defendant charged with domestic violence or Driving Under the Influence or physical control is mandated by law. The "next court day" for this court means the next regularly scheduled court session at least one calendar day after the violation date of the citation.

## RULE 3

### TRIAL BY JURY/PRE-TRIAL CONFERENCE/READINESS HEARING

In every criminal or traffic case in which the defendant requests a jury trial, the Clerk shall set a date for a pre-trial conference. The purpose of said conference is for presentation of motions, completion of plea bargaining, and to set a trial date. Discovery shall be in the hands of the party requesting same at least two (2) working days PRIOR TO said conference. The Clerk will then proceed to set the jury trial.

If the party or his attorney fails to appear at said conference without good cause, bail will be ordered forfeited and the Court will order a Bench Warrant issued for the arrest of the defendant, or costs will be imposed against a non-appearing attorney.

If the defendant does not appear, any other appearance dates set will be stricken, bail forfeited, and the court will order a bench warrant for the arrest of the defendant.

Within fourteen (14) days prior to an assigned jury trial date there shall be held a readiness hearing. At such hearing, it shall be mandatory that the prosecuting authority, the defense counsel, and the defendant be present. At such hearing, the following matters will be concluded:

- 1) All plea bargaining
- 2) Exchange of witness lists
- 3) Providing of any discovery not previously exchanged at the pre-trial conference
- 4) Motions on legal issues arising subsequent to the pre-trial conference or on issues arising due to new evidence

At the conclusion of the readiness hearing, the court will no longer accept any plea bargaining arrangements. Therefore, the case will be tried by jury unless waived by the defendant, or concluded by a guilty plea to the original charge, or a dismissal of the charge(s).

A failure of the defendant to be present at the readiness hearing will result in the issuance of a bench warrant for failure to appear and the vacating of the jury trial date. The requirements of this rule can be waived only by the judge/commissioner assigned to the case.

## RULE 4

### MOTIONS AND APPLICATIONS - NOTICE - SERVICE

- 1) Note for Motion. Either party may note a motion upon the motion calendar in writing, with proper and timely notice to opposing counsel. Motions may only be noted on other calendars with the prior permission of the Judge or Commissioner for good cause shown. Each note for motion form shall include an estimate of the amount of time the party believes the motion will take. Motions improperly noted may be stricken by the clerk.
- 2) Memoranda. Memoranda relating to motions shall not exceed ten (10) pages, not including attachments and exhibits. Requests for waiver of page limitations may be granted for good cause shown, and may be heard ex parte. Copies of any

# **BELLINGHAM MUNICIPAL COURT LOCAL COURT RULES**

statutes, ordinances, reported cases, or other authorities the advocate deems important to his or her argument shall be attached to the memoranda. A second, judge's copy of memoranda, with attachments, is appreciated by the Court, but is not required.

- 3) Motion Hearing Procedures. Oral argument on motions shall be limited to five (5) minutes for each side, exclusive of testimony, unless the assigned Judge or Commissioner determines otherwise.

## **RULE 5 JURY SETTINGS**

A matter set for jury may be heard by the Judge or Commissioner. A party wishing to file an affidavit of prejudice must do so before any discretionary ruling, and prior to the pre-trial date.

## **RULE 6 WRITTEN JUROR INSTRUCTIONS**

When a jury is to be instructed in writing, proposed instructions shall be submitted on plain paper with no mark identifying the attorney or party. The original, which shall be free of citations of authority and one copy with the citation of authority shall be submitted to the court at the readiness hearing.

## **RULE 7 VOIR DIRE**

The voir dire examination of jurors shall be conducted under the direction and control of the court with the following guidelines:

- 1) It is expected that voir dire, in most cases, will consume one hour of time or less. Generally, the Struck Jury Method of voir dire will be used.
- 2) The Court shall ask all general questions and thereafter shall give leave to the respective parties to ask such supplementary questions as may be deemed proper and necessary by the court. The parties may submit all proposed general questions in writing prior to voir dire.
- 3) The Court may intervene without objection in instances of inappropriate questioning and may limit the amount of time each party has to examine a juror or jury panel.

## **RULE 8 REQUIREMENTS FOR PAYMENT OF JURY FEES UPON CANCELLATION OF JURY TRIAL**

If a defendant who has been charged with a criminal violation has requested a jury trial, and if that jury panel is summoned and the Municipal Court has incurred the expense, or will incur the expense because the jury has been brought in, and if the defendant waives his or her right to a jury trial less than 48 hours prior to the date for which the jury trial been scheduled, or otherwise causes the excusal or release of the jury from hearing the case, the defendant shall be responsible for payment to the Municipal Court of the amount of the actual costs incurred by the Municipal Court for jury fee payments and mileage reimbursements. Provided, however, that the judge/commissioner presiding over the case specifically determines that payment of those fees and costs shall be waived for good cause shown.

Any such jury fee costs imposed by the court for payment and reimbursement of jury fees and mileage reimbursement shall be paid by the defendant as a condition of suspended sentence, if any, or as otherwise directed by the court.

## **RULE 9 CIVIL INFRACTION - HEARING ON MITIGATING CIRCUMSTANCES**

A defendant requesting a reduction of a civil infraction penalty may have such determination based on his or her prior record and, or, on other relevant information available to the Court without an explanation of the event cited. The amount of the reduction shall be set by the Court in a written Order, maintained in the Clerk's Office, and available upon request.

The civil infractions which are disposable by a reduced bail forfeiture, shall be established by the Judge. A public list of those civil infractions, bail amount, and any conditions applicable shall be maintained in the Clerk's Office and be available upon request.

## **RULE 10 CIVIL INFRACTION – DECISION ON WRITTEN STATEMENTS**

# **BELLINGHAM MUNICIPAL COURT LOCAL COURT RULES**

- 1) Generally. The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 90 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.
- 2) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.
- 3) Disposition. If the court determines that the infraction has been committed, it may assess a penalty in accordance with IRLJ 3.3.
- 4) Notice to Parties. The court shall notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed, and the date by which such payment shall be made to the court.
- 5) No Appeal Permitted. There shall be no appeal from a decision on written statements, and the decision of the Judge/Commissioner shall be final for all purposes.

## **RULE 11 PROCEDURE AT CONTESTED HEARINGS**

Each party at a contested hearing is responsible for subpoenaing his or her own witnesses including the Speed Measuring Device Expert (SMD Expert). If the defendant wishes the SMD Expert present in court to testify or pursuant to IRLJ 6.6 (b), it is the defendant's responsibility to issue the subpoena. Each party shall bear the cost of their own subpoenaed witness including the Speed Measuring Device Expert, as set forth in RCW 46.63.151.

This rule is not intended to supersede or conflict with any statutes covering procedures for infractions or the Infraction Rules For Courts Of Limited Jurisdiction (IRLJ), specifically IRLJ 3.1 (a), IRLJ 6.6, or CrRLJ 6.13(d).

## **RULE 12 PAYMENT OF FINES AND PENALTIES**

- 1) Infractions. Any person who has been served with a notice of infraction and who desires to use option (1) as provided in IRLJ 2.4(b)(1), may arrange time payments on the monetary penalty according to the policy then in force. Infraction penalties imposed shall be paid at the conclusion of any requested hearing unless payments are authorized by the Judge/Commissioner.
- 2) Attorney and Jury Fees - Reimbursement. The Court may require partial or full reimbursement to the City for the cost of Court appointed counsel, interpreters, and /or jury fees from those defendants the Court finds able to pay such.
- 3) Jail Costs - Reimbursement. The Court may require partial or full reimbursement to the City for the cost of jail time, as set by the Whatcom County Sheriff's Department, from those defendants the Court finds are able to pay the same.
- 4) Revocation of Probation or Imposition of Suspended Jail Time and/or Fines. Probation shall be revoked and previously suspended jail time and/or fines may be imposed for willful failure to pay fines. Any defendant unable to make fine payments in a timely manner shall request judicial review on or before the date such payment is due. Failure to request such a hearing shall be prima facie evidence of a willful failure to pay. Defendants who cannot pay fines and, or, costs assessed shall request community service as an alternative to monetary payments.

## **RULE 13 WEAPONS IN COURT BUILDING PROHIBITED**

- 1) Pursuant to RCW 9.41.300(1)(b), the Court has determined that weapons shall be prohibited from all indoor areas of the Bellingham Municipal Court Building, located at 2014 "C" Street.
- 2) Exceptions:
  - a) Pursuant to RCW 9.41.300(7), Paragraph (a) shall not apply to weapons carried by a person engaged in military activities sponsored by the federal or state governments while engaged in official duties, to law enforcement personnel, or to courthouse security officers engaged in official duties;
  - b) Paragraph (a) shall not apply to weapons carried by persons proceeding directly and promptly between the exterior doors at the public entrance of the Bellingham Municipal Court Building and any official lock box or public official expressly designated by the City Council for the storage or retention of weapons.

## **RULE 14 COURT FILES AND AUDIO TAPES - INSPECTION AND COPYING PROCEDURES**

- 1) All documents, including pleadings, filed with the Court and all audio-tape recordings of court proceedings are presumed to be available for public inspection and/or copying during court business hours upon request, except as otherwise provided herein.

## BELLINGHAM MUNICIPAL COURT LOCAL COURT RULES

- 2) If any party wishes to seal any document, that party must do so by motion to the Court with proper notice to all parties. If the Court finds sufficient cause to seal the document, the Court will direct the Clerk to seal the document and the document will be placed in a sealed envelope in the court file.
- 3) No sealed documents will be accepted for filing without a written court order.
- 4) Sealed documents will not be available for public inspection or copying.
- 5) Any person may request that a sealed document be unsealed, but must do so by motion to the Court with proper notice to all parties.
- 6) Social security numbers, mental health evaluations, and medical evaluations pertaining to drug or alcohol dependency shall not be subject to inspection or copying except where the Defendant or Defendant's attorney so requests, or upon court order after a showing of good cause.
- 7) Private records: Pursuant to ARLJ 9(b), the following records are deemed to be "private records" and shall not be subject to inspection or copying unless they have been admitted into evidence, incorporated into a court pleading, or are the subject of a stipulation on the record which places them into public records:
  - a) Witness statements and police reports;
  - b) Pre-sentence reports and reports related to compliance with conditions of sentence;
  - c) Copies of driving records or criminal history records subject to RCW 10.97;
  - d) Correspondence received by the court regarding sentencing and compliance with the terms of probation.
- 8) Quasi-public records: Pursuant to ARLJ 9(c) and RCW 10.101.020(3), the following records are deemed to be "quasi-public records" and are not subject to inspection or copying, but are subject to inspection or copying by the defendant or the defendant's attorney:
  - a) Witness statements;
  - b) Pre-sentence reports and reports related to compliance with conditions of sentence;
  - c) Copies of driving records or criminal history records subject to RCW 10.97;
  - d) Correspondence received by the court regarding sentencing and compliance with the terms of probation, except when the information is provided on condition it remain confidential or when a finding of good cause is made for its confidentiality.
  - e) Any application submitted in support of a determination of indigency.
- 9) Copying charges:
  - a) The charge for copying documents is 15 cents per page.
  - b) The charge for copying audio tapes is \$10.00 per tape. The charge shall be reduced to \$5.00 per tape if the requesting party provides his or her own blank audio tape.
  - c) There shall be no charge for inspecting or locating any document or audio tape.
  - d) Payment for copies of audio tapes must be received before copies will be made.
  - e) Payment for copies of documents shall be received before copies are distributed unless the Clerk, Judge, or Commissioner determines that there is good cause to waive this requirement.
- 10) Pursuant to ARLJ 9(e), judicial review of disclosure may be requested by the prosecutor, defendant, defense attorney, court staff, or any other interested parties. If such a request is made, the Court may withhold dissemination of the record until a hearing may reasonably be held. Following the hearing, the court may make such restrictive orders as are necessary.
- 11) To ensure the integrity of court files and property, unless otherwise authorized in writing by the Judge or Court Commissioner:
  - a) All copying of court files and audio tapes shall be conducted by court staff;
  - b) Inspection of court files shall take place in the designated court file viewing area; and
  - c) The Clerk shall have the discretion to determine the appropriate location and equipment to be used in reviewing audio tapes.

Nothing in this rule shall be construed to supersede existing statutes or subsequent amendments thereto.

### RULE 15 Bail

Effective immediately, the following policy shall govern the calculation of bail for all criminal matters:

## **BELLINGHAM MUNICIPAL COURT LOCAL COURT RULES**

- 1) When the court determines that requiring bail is necessary, the court shall establish an appropriate level of cash bail, which shall be entered upon the appropriate docket slip or other court document. The amount entered will be presumed to be for cash; it is not necessary to indicate "cash only".
- 2) After the defendant appears or reappears in court, a bond in the amount of ten times the level of cash bail may be posted in lieu of cash bail, unless the court specifically orders that a higher or lower bond is required.
- 3) The court may apply cash bail posted in the defendant's name to pay the defendant's fines, penalties and costs on the present case or on any past due obligations to the court.
- 4) This policy shall be retroactively applied to all cases in which bail has previously been set.