

**Everett Municipal Court
Local Court Rules
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**EVERETT MUNICIPAL COURT
RULES OF GENERAL APPLICATION**

RULE NO. 1

HOURS

- A. Except as provided in Section B, below, The Everett Municipal Court is open to the public Monday-Friday 8:00 a.m. to 4:30 p.m.

The Clerk's office is closed between 12:00 p.m. and 1:00 p.m. for lunch.

- B. One Wednesday each month the Court will remain open to accommodate a Bench Trial calendar beginning at 5:00 p.m. and continuing until the last case is completed.

If court is in session before 8:00 a.m. or after 4:30 p.m., or between 12:00 p.m. and 1:00 p.m., the courtroom(s) in which court is in session are open to spectators to enter, remain, and leave the proceedings in accordance with defendants' public trial rights under state and federal law.

(Adopted Effective September 1, 2015; amended effective September 1, 2021)

RULE NO. 2

CALENDARS

(Rescinded effective September 1, 2013)

RULE NO. 3

ARRAIGNMENT

- A. When issuing a citation for a criminal traffic or criminal non-traffic offense, the issuing officer shall set the defendant's arraignment date and time. The arraignment date shall be the next available regularly scheduled arraignment date, except as otherwise provided herein. A defendant who is charged with DUI, as described in RCW 46.61.502; Driving under age twenty-one after consuming alcohol or marijuana, as defined in RCW 46.61.503; or being in physical control of a motor vehicle while under the influence, as defined in RCW 46.61.504, shall appear in person before a judge on the next available arraignment date. Arraignments are held every Wednesday and Friday at 8:30 a.m., except on court holidays.

- B. Pursuant to CrRLJ 3 and 4, an attorney may enter an appearance and/or plea of not guilty and waive arraignment on behalf of a defendant in any criminal non-traffic or criminal traffic offense, if said appearance or plea is made in writing or in open court. Except, however, where the defendant is charged with DUI, Driving under age twenty-one after consuming alcohol or marijuana, or Physical control of a motor vehicle while under the influence, as defined in RCW 46.61.502, 503 and 504, or any Domestic Violence offense, as defined in RCW 10.99.020, the defendant must appear personally before the Court for arraignment.

(Adopted effective September 1, 2016; amended effective September 1, 2021)

RULE NO. 3.1

APPEARANCE BY DEFENDANT'S ATTORNEY

- A. For purposes of CrRLJ 4.1 (g) (6), only a named, licensed attorney or named, licensed attorneys licensed to practice law in the State of Washington may enter an appearance or a plea of not guilty on behalf of a client.
- B. Appearances and pleas of not guilty are subject to all requirements of CrRLJ 4.1 (g) as currently enacted or later amended. In addition, any Notice of Appearance filed in this court that is not signed by a named, licensed attorney as required herein shall constitute reasonable grounds for the Court to require that the attorney assuming to appear for the defendant produce the authority under which he or she appears, and until he or she does so, may stay all proceedings by him or her on behalf of the party for whom he or she assumes to appear.
- C. For attorneys assigned by the Court, upon notification of assignment, the assigned attorney shall within five (5) court days file his/her Notice of Appearance. Further, any attorney substituting shall file their notice within five (5) court days of assignment and/or substitution, whichever is sooner.
- D. Notices of Appearance may be filed and served electronically via email. Parties filing an electronic Notice of Appearance thereby consent to electronic filing and service of the prosecutor's demand(s) for discovery. All parties utilizing such procedures shall use email addresses and electronic formats acceptable to the Court Administrator and prosecutor's office. The effective date for filing shall be as set forth in GR 30.
- E. A matter in which there has been a proper appearance or plea of not guilty will be set for pretrial hearing unless otherwise ordered by the Court.
- F. Notwithstanding subsection (a) of this rule, the defendant is required to personally appear on the originally scheduled arraignment date in accordance

with RCW 10.99.045(1), Local Rule 3, and for all other offenses for which the defendant's presence is mandated by law.

- G. Once an attorney has appeared in a criminal case for which a trial is pending, that attorney may withdraw from the case only with (i) the consent of the Court for good cause shown and (ii) substitution of counsel or the defendant's knowing, voluntary and intelligent decision to proceed without counsel. If the withdrawal is mandated by the Rules of Professional Conduct, the Court may require the filing of a written motion and affidavit setting forth the reason. If a represented defendant fails to appear for any hearing and the Court issues a warrant for the defendant's arrest, an oral motion to withdraw may then be granted by the Court.

(Adopted Effective September 1, 2020; amended effective September 1, 2021)

RULE NO. 4

CONTINUANCES

Continuance of a jury trial date may be granted upon written stipulation. Per CrRLJ 3.3 (f)(1), a written stipulation between the parties for a continuance must be signed by the defendant. In the absence of a written stipulation, an agreed motion for continuance may be granted upon a showing of good cause. The Court may grant a contested motion for continuance after oral argument or may require that a contested motion for continuance be made in writing and noted for hearing on or before the last motion calendar prior to the confirmation or trial date. If a continuance is granted, the period between the date of the continuance and the new trial date shall be an excluded period for speedy trial purpose, per CrRLJ 3.3 (e)(3).

(Adopted effective September 1, 2012; amended effective September 1, 2021)

RULE NO. 5

MOTION HEARINGS

- A. Time for Filing: All non-trial motions shall be filed, served and noted for hearing at least six (6) days prior to the date specified for the hearing. Bench copies of all pleadings for substantive motions shall be provided at the time of filing and shall designate the date and time of the hearing. Except for motions in limine, no pretrial motions shall be heard or noted for hearing on the trial date without prior approval by the Judge. Motions in limine are expected to be non-testimonial and should be concluded in less than an hour for most cases.
- B. Confirmation of Motion: On the last court day preceding the calendared motion date, the moving party for any motion for which live testimony will be offered, shall contact the Everett Municipal Court Clerk's office by email at

MunicipalCourt@everettwa.gov between 9:00 a.m. and 12:00 p.m., and confirm the motion will be heard. Failure of the moving party to confirm the motion may cause the case to be stricken from the motion calendar.

- C. CrRLJ 3.5 and CrRLJ 3.6 motions: The defendant must be personally present at 3.5 and 3.6 hearings. CrRLJ 3.5 and CrRLJ 3.6 hearings require a designation of the officer(s) who may be required to testify, unless the Court authorizes otherwise. CrRLJ 3.6 motions shall be set forth in writing with a memorandum of points and authorities and an affidavit or declaration as permitted under RCW 9A.72.085 setting forth specific facts which counsel expects to elicit at a hearing. Failure to comply with any provision herein may result in the motion being stricken from the calendar.
- D. No Contact Orders: A request to rescind or modify a No Contact Order in a Domestic Violence case may only be made by a party to the case. The party must file a request on a form prescribed by the Court. All parties and the protected person must be served by written notice at least five (5) court days before any hearing to consider such a request.

(Adopted effective date September 1, 2013; amended effective September 1, 2016; amended effective September 1, 2018; amended effective September 1, 2021; amended effective September 1, 2022)

RULE NO. 6

JURY TRIAL SETTING AND PRETRIAL HEARINGS

- A. Initial Trial Setting: Upon entry of a not guilty plea, the defendant will be assigned a Pretrial hearing date and a Jury Trial date. A Trial Readiness hearing will be set when the parties have resolved all pretrial issues, including discovery and motions.
- B. Pretrial Hearing: Pretrial hearings shall provide an opportunity for plea negotiations and resolution of discovery issues. If the case is to be confirmed for trial, the parties shall also confirm that pretrial issues have been resolved and a Trial Readiness hearing date shall be set.
- C. Trial Readiness Hearing: Trial Readiness hearings are generally scheduled six (6) days prior to trial. Upon confirmation that the case is ready for trial at the hearing, the Judge may inquire as to the anticipated length of the trial, the number of witnesses expected to be called, the number and nature of any motions still to be heard, and any other matter necessary to administer the trial efficiently. Any anticipated problems or unresolved issues affecting the trial should also be

brought to the Court's attention. The Court may require a showing of good cause if a party requests a continuance at the Trial Readiness hearing.

- D. Failure to appear at Pretrial/Trial Readiness Hearing: The Court will strike the jury trial date and may issue a bench warrant if a defendant fails to appear at a Pretrial hearing or Trial Readiness hearing.

(Adopted effective date September 1, 2011; amended effective September 1, 2016; amended effective September 1, 2021)

RULE NO. 7

VOIR DIRE

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

It is expected that voir dire, in most cases, will consume less than thirty minutes. 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 shall submit all proposed general questions in writing prior to voir dire.

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.

(Adopted effective date September 1, 2012; amended effective September 1, 2021)

RULE NO. 8

MISCELLANEOUS

(Rescinded effective September 1, 2015)

RULE NO. 9

PROBATION HEARINGS

- A. DUI Review: An initial DUI Review shall be set approximately four months post sentence. All DUI and Physical Control cases, whether or not the charge was amended during the course of the proceedings, shall be set for an initial DUI Review unless otherwise ordered by a judge.

- B. Probation Revocation Hearing: Probation Revocation hearings may be ordered by the Court when there is an alleged violation of a probation or deferral condition and the defendant does not admit the violation(s). The City Prosecutor shall present the evidence to prove the violation(s).
- C. Show Cause Hearings: The Court may order Show Cause hearings for any alleged violation of a condition of probation or deferral. Such hearing may be heard on any regular probation calendar or may be specially set.
- D. Prosecutorial Offer of Diversion (POD) Review: Upon entry of a POD, the case shall be set for at least one review hearing, generally at the conclusion of the agreed-upon diversion period.

(Adopted effective September 1, 2015; amended effective September 1, 2021)

RULE NO. 10

DEFERRED PROSECUTION

- A. Petition: A petition for deferred prosecution pursuant to RCW Chapter 10.05 shall be filed with the Court and the City Prosecutor's Office not later than seven (7) days prior to proposed entry of the Deferred Prosecution, absent a showing of good cause for a delay. The petitioner must use the Court's form, Petition for Deferred Prosecution.
- B. Deferred Prosecution Order: No order approving a Deferred Prosecution pursuant to RCW Chapter 10.05 shall be granted, unless:
 - 1. The petition, order, assessment, treatment plan and criminal history have been reviewed and approved by the Court's Probation Department to ensure compliance with RCW Chapter 10.05 and appropriateness of the treatment program of the defendant;
 - 2. Proof is presented to the Court that the defendant is enrolled in and in good standing with a treatment program, and
 - 3. The proposed order is the Court's form Order Granting Deferred Prosecution; and
 - 4. If the Deferred Prosecution is for a domestic violence offense as defined by Chapter 10.99 RCW or similar municipal ordinance, the petitioner has executed, and is in compliance with, a separate Order to Surrender and Prohibit Weapons (RCW 9.41.800).
- C. Treatment Provider: No changes in treatment, nor changes in treatment provider, shall be permitted without prior order of the Court.

(Adopted effective September 1, 2010; amended effective September 1, 2017; amended effective September 1, 2018; amended effective September 1, 2021)

RULE NO. 11

RULES OF EVIDENCE

The Rules of Evidence are applicable to Criminal prosecutions.

(Adopted effective September 1, 1996)

RULE NO. 12

INFRACTION WITNESS FEES

Each party is responsible for costs incurred by that party as set forth in RCW 46.63.151. The party requesting the witness shall pay the witness fees and mileage expenses due that witness. Any person who requests production of an electronic speed measuring device expert, and who is thereafter found by the court to have committed the infraction, may be required to pay the fee charged by the expert as a cost incurred by the party.

(Adopted effective September 1, 2008)

RULE NO. 13

FACSIMILE (FAX) TRANSMISSIONS

- A. The clerks of the court may accept for filing documents sent directly to the clerk by electronic facsimile (fax) transmission. A fax copy shall constitute an original for all court purposes. The attorney or party sending the document via fax to the clerk shall retain the original signed document until 60 days after completion of the case. Documents to be transmitted by fax shall bear the notation: "SENT on DATE VIA FAX FOR FILING IN COURT.
- B. If a document is transmitted by fax for filing with the court, the person responsible for the filing must attach an original affidavit as the last page of the document. The affidavit must bear the name of the court, case caption, case number, the name of the document to be filed, and a statement that the individual signing the affidavit has examined the document, determined that it consists of a stated number of pages, including the affidavit page, and that it is complete and legible. The affidavit shall bear the original signature, the printed name, address, phone number and fax number of the individual who received the document for filing.

- C. The clerk of the court may use fax transmission to send any document requiring personal service to one charged with personally serving the document. Notices and other documents may be transmitted by the clerk to counsel of record by fax.
- D. The Court reserves the right to charge reasonable fees for receiving, collating, and verifying lengthy fax transmissions.
- E. A document transmitted directly to the clerk of the court shall be deemed received at the time the clerk's fax machine electronically registers the transmission of the first page, regardless of when final printing of the document occurs, except that a document received after the close of normal business hours shall be considered received the next court day. If a document is not completely transmitted, it will not be considered received. A document transmitted to another for filing with the clerk of the court will be deemed filed when presented to the clerk in the same manner as an original document.

(Adopted effective September 1, 2004; amended effective September 2021)

RULE NO. 14

Any of these Rules may be suspended or modified by the Court upon its own motion.

(Adopted effective September 1, 2000)

RULE NO. 15

VIDEO CONFERENCE PROCEEDINGS

- A. Authorization: Preliminary appearances as defined by CrRLJ 3.2.1 (d), arraignment as defined by CrR 3.4 and 4.1 and CrRLJ 3.4 and 4.1, bail hearings as defined by CrR3.2 and CrRLJ 3.2, and trial settings as defined by CrR 3.3 and CrRLJ 3.3 (f), and pretrial hearings as determined by the court, conducted via video conferencing in which all participants can simultaneously see, hear, and speak with each other shall be deemed in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the court. Any party may request an in-person hearing which may, in the court's discretion, be granted.
- B. Agreement: Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as defined by CrR 4.2 and CrRLJ 4.2 may be conducted by video conference only by agreement of the parties. The defendant will be deemed to have agreed to voluntarily participate in court proceedings in the Everett Municipal Court by video conference unless the defendant or counsel

for the defendant notifies the court at the time of the proceeding that he/she objects to the proceedings being conducted via video conference. The right to object to video conference proceedings will be deemed waived if not exercised prior to the start of the video conference hearing.

- C. Standards for Video Conference Proceedings: The standards for video conference proceedings shall be as specified in CrRLJ 3.4(d)(3).
- D. Scheduling: Whenever a party requests to add a matter to a video conference hearing in accordance with court procedures, the matter will be added to the requested date unless the caseload or other circumstances require that the matter be heard on a date other than requested.

(Adopted effective September 1, 2013; amended effective September 1, 2018; amended effective September 1, 2021)

RULE NO. 16

LOCAL BAIL SCHEDULE

Everett Municipal Court adopts the following bail schedule pursuant to CrRLJ 3.2(b)(7) and CrRLJ 3.2(o):

- A. Domestic Violence Offenses. Bail shall be set at \$100,000, subject to judicial review under CrRLJ 3.2.1, for any person booked and detained in jail after the initial arrest for an offense classified as Domestic Violence under Chapter 10.99 of the Revised Code of Washington or under Title 10 of the Everett Municipal Code.
- B. DUI, Physical Control. Bail shall be set at \$100,000, subject to judicial review under CrRLJ 3.2.1, for any person:
 - 1. Who is booked and detained in jail after the initial arrest for an offense involving driving under the influence as defined in RCW 46.61.502 or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and;
 - 2. Who is not required, pursuant to RCW 10.31.100, to be kept in custody until appearance before a judge because the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years.
- C. Other Offenses. Bail for all other offenses shall be set according to the Uniform Bail Schedule in CrRLJ 3.2(o). A copy of the bail schedule is available for viewing upon request at the clerk's office.

(Adopted effective September 1, 2015)

RULE NO. 17

INFRACTION HEARING BY WRITTEN STATEMENT – MITIGATION AND CONTESTED

The Court adopts the procedures authorized by IRLJ 3.5(a).

- A. A person who has been served with a notice of infraction may submit a written statement and any documents to be considered to the court. Any infraction hearing based upon written statements may be held in chambers.
- B. A person who requests an infraction hearing based on a written statement must comply with the procedures set forth in IRLJ 2.4(b). Any statement and documents to be considered must be received by the court at least five (5) days before any scheduled hearing time.

(Adopted effective September 1, 2016; amended September 1, 2020; amended effective September 1, 2021)

RULE NO. 18

COMPETENCY SCREENING

- A. Competency Assessment Screening:
 - 1. Upon a representation that there may be reason to doubt the competency of an in-custody criminal defendant, the Court may order an initial competency assessment by the Snohomish County Competency Assessment Management Program at Snohomish County Corrections.
 - 2. If ordered, the Competency Assessment Screening Report shall be provided in writing to the Court, the City Prosecutor's Office and defense counsel within three (3) court days of the entry of the Competency Assessment Screening Order.
 - 3. The assessment and report authorized by this rule shall be conducted and prepared by qualified mental health professionals at Snohomish County Corrections.
- B. Court Action: At the hearing following receipt of the Competency Assessment Screening Report, the Court shall, along with the report, consider the arguments and any factual information from the Prosecutor and defendant's counsel and may either:

1. Find that there is not a reason to doubt the competency of the defendant and deny a motion for further evaluation of the defendant's competency pursuant to RCW 10.77.060, or
2. Find that there is reason to doubt the competency of the defendant, stay further criminal proceedings, and order a full competency evaluation pursuant to RCW 10.77.060.

C. Defendant Rights:

1. Any time the defendant is being assessed by court-appointed experts or mental health professionals pursuant to the provisions of this local rule, the defendant shall be entitled to have his or her attorney present.
2. In a Competency Assessment Screening conducted under this rule, the defendant may refuse to answer any question where he or she believes that the answer may be incriminating or may form links leading to evidence of an incriminating nature.
3. No provision of this local rule shall abrogate any right guaranteed or provided by the Constitution of the United States or of the State of Washington, Washington statutes or Washington State Court Rules.

(Adopted effective September 1, 2017; amended effective September 1, 2021)