



**City of Burnet
Municipal Court**

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Peggy Simon
Presiding Judge

January 6, 2021

Honorable Billy Ray Stubblefield
Presiding Judge,
Third Administrative Judicial Region
State of Texas

Re: Re-Certification of In-Person Operating Plans

Dear Judge Stubblefield:

As required by the Supreme Court's Emergency Orders and Guidance from the Office of Court Administration, I include here the required re-certification of the City of Burnet's Municipal Court's In-Person Operating Plan.

I have consulted with the local public health authority regarding the local pandemic conditions and have reviewed with the health authority the previously-submitted in-person operating plan to determine whether the plan provides sufficient health and safety protocols to permit in-person proceedings.¹ The local public health authority has determined that the condition check below applies:

- Local pandemic conditions are conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan;
- Local pandemic conditions are conducive to in-person proceedings with modifications to the precautions and protocols in the previously-submitted in-person operating plan;²
- Local pandemic conditions are not currently conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan.

¹ Documentation of the consultation can be accomplished by submitting this letter stating such or an email or letter from the local public health authority.

² If it is determined that the previously-submitted in-person operating plan needs to be modified, the local administrative district judge or presiding judge of the municipal court should submit the modified plan after following the process detailed on p. 3 of the [Guidance for All Court Proceedings During COVID-19 Pandemic](#).

- c. A confrontation clause constitutional objection is raised by criminal defense counsel or a pro se litigant, and the judge sustains the objection after conducting a *Haggard*⁵ analysis.
 - d. A proceeding where one Participant needs to appear in person due to a need to provide fingerprints, is subject to incarceration, or must meet with multiple departments as a result of the court proceeding, in which case that party may need to appear while the other parties appear remotely.
2. If an individual is unable to participate for one of these reasons, prior to holding an in-person hearing, the judge shall make reasonable efforts to accommodate the individual as set forth in the procedure below.

When an individual is found to be unable to participate in a Zoom videoconference for one of the reasons stated above, prior to holding an in-person hearing, the judge considering the in-person hearing shall make all reasonable efforts to make accommodations that will allow the individual(s) to participate. The accommodations that the judges of the Municipal Court shall consider include:

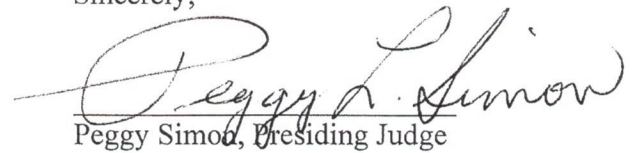
1. When an individual does not have adequate technological resources on their own to participate in a Zoom videoconferencing hearing, a judge shall:
 - a. determine whether the court has the ability to provide the individual with a laptop or other device which would allow the individual to participate in the hearing from some segregated location within the court facility while following appropriate COVID-19 precautions and protocols;
 - b. determine if such technological resources can be provided to the individual by some other source (e.g. a participating attorney, a party, a family member, friend, public library, or an appropriate agency of the State of Texas); and
 - c. determine whether the individual could participate in a meaningful manner by telephone (audio only).
2. When an individual has physical or mental disabilities that would prevent the individual from operating the technology required, a judge shall:
 - a. determine if the individual has legal counsel, family or friends who can assist in operating the required technology; and
 - b. inquire as to what, if any, accommodations could be made which would allow the individual with a disability to participate.
3. When an individual is incarcerated, a judge shall:
 - a. determine whether the facility has the technological resources or facilities to allow the incarcerated individual to participate in the hearing;
 - b. if the facility does not have the technological resources to allow the inmate to participate in a Zoom videoconference, determine whether the inmate could participate in a meaningful manner by telephone (audio only).
4. When an individual is otherwise unable to participate in a hearing via videoconference or by audio only, a judge shall determine whether the individual can effectively participate in the proceeding by a sworn statement made out of court as permitted by the Emergency Orders of the Supreme Court of Texas.

⁵ *Haggard v. State*, 2020 WL 7233672 (Tex. Crim. App. 2020)

5. If no accommodation is available, the judge shall determine if a continuance is warranted, balancing the risk to public health and safety with the need to resolve the particular case.
6. If no accommodation is available and the judge determines a continuance is not warranted, the judge may permit the hearing to occur in-person under the precautions and protocols in the approved in-person operating plan.

Having completed the required re-certification, I am submitting it to you in your role as Regional Presiding Judge. I understand and have communicated to the judges with courtrooms in county/municipal facilities that no in-person hearings will be permitted on or after January 11 until I receive an acknowledgement from you that the re-certification meets the requirements of OCA's Guidance.

Sincerely,



Peggy L. Simon

Peggy Simon, Presiding Judge

Patricia Langford

From: Peggy Simon <plsimon_99@yahoo.com>
Sent: Tuesday, January 12, 2021 12:51 PM
To: Patricia Langford
Subject: Fw: Covid court plan

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Jules Madrigal" <julesmadrigal@hotmail.com>
To: "Peggy Simon" <plsimon_99@yahoo.com>
Sent: Tue, Jan 12, 2021 at 11:16 AM
Subject: RE: Covid court plan

I approve the recertification plan for Burnet Municipal Court and Bertram Municipal Court as per the "local pandemic conditions are conducive to in-person proceedings under the precautions and protocols contained in the previously submitted in-person operating plan.

Juliette Madrigal, MD

Burnet County Health Authority

From: Peggy Simon
Sent: Tuesday, January 12, 2021 9:35 AM
To: Jules Madrigal
Subject: Covid court plan

Sent from Yahoo Mail on Android

From: Mayor
Sent: Monday, January 11, 2021 1:02 PM
To: Peggy Simon
Subject: Recertification Plan for Burnet Municipal Court

Judge Simon,

I have reviewed the recertification plan for the Burnet Municipal Court and I approve of the new plan. Please forward as necessary.

Crista Goble Bromley
Mayor

Crista Goble Bromley, Mayor
City of Burnet, Texas
(512) 715-3209 (Office)
(830) 613-6549 (Cell)

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