

**Template for Re-Certification of In-Person Operating Plan**  
***CITY OF HOUSTON MUNICIPAL COURTS***

[FEBRUARY 2, 2021]

Re: Re-Certification of In-Person Operating Plans

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 Houston Municipal Courts 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.<sup>1</sup> The local public health authority has determined that (check one):

- 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;<sup>2</sup>
- 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.

In addition, I have conferred with the judges of the courts with courtrooms in county/municipal buildings and have determined that the following criteria will be used to determine when an in-person proceeding is necessary and when all reasonable efforts do not permit the proceeding to be conducted remotely:

All judges in the City of Houston Municipal Courts, will provide an opportunity for Zoom hearings before conducting in-person hearings. For those who cannot participate or do not have the technical ability to participate in a Zoom meeting, alternative courts will be open to review the defendant's cases.

1. The judge shall inform each counsel and pro se litigant that the hearing shall be conducted remotely over Zoom. There are no jury or judge trial scheduled until after April 1, 2021 and no witnesses or officers being subpoenaed. The judge shall provide each counsel and pro se litigant a phone number or email address to schedule a Zoom Hearing. The pro se litigant/counsel shall inform the judge if they believe their clients; a pro se litigant; any witness; an interpreter; or any other participant (all referred to below as "Participant") cannot participate remotely. **The City of Houston has a population of 2.31 million people and our Municipal Court system on a monthly average handle over 23,500 cases a month. The City of Houston operates 4 different court locations daily (two operate from 8am to 10pm and two from 8am to 5pm). Any person requesting a Zoom hearing will be granted review of their cases. No mandatory hearings are**

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

<sup>2</sup> 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](#).

**set at the current time. No formal trials will occur at this time.** The judge has determined that a Participant is unable to participate in the hearing due to any one or more of the following:

- a. lack of technology which precludes or impedes their ability to participate in the hearing via the Zoom videoconferencing app. Examples of the lack of such technology include:
    - i. lack of access to a computer tablet or other device with internet video capability;
    - ii. lack of access to a cell phone; or
    - iii. lack of access to an internet connection.
  - b. A physical, mental, or other disability that prevents a Participant from being able to effectively operate or utilize the required technology. Examples of such a disability include:
    - i. a physical or mental disability that precludes them from effectively operating the technology necessary to access the Zoom videoconferencing app;
    - ii. a physical disability that precludes them from effectively seeing, hearing, or otherwise participating in a Zoom video hearing;
    - iii. the lack of or unavailability of an interpreter who can assist the individual in communicating during a Zoom hearing;<sup>3</sup> there are 145 languages spoken in the City of Houston.
    - iv. incarceration and the incarcerating facility's lack of technological resources or facilities to allow the inmate to participate remotely in the hearing or confer privately with the inmate's legal counsel;<sup>4</sup> or
    - v. if the proceeding is in a specialty court defined by Title 2, Subtitle K of the Texas Government Code (e.g. veteran's court, mental health court, drug court, etc), the specialty court team determines that there is a risk to the physical or mental well-being of a participant in the specialty court program if the proceeding is not held in person.
  - 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*<sup>5</sup> 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. The law requires that our domestic violence cases should be heard in person, and upon convictions fingerprints taken. Currently domestic violence cases have increased in the City of Houston so the need to have live hearings has increased as well. Our property hearings where the state is withholding a citizen's property needs to be held in person, for identification purposes.
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**

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<sup>3</sup> If a Spanish interpreter is needed, please consider using OCA's free Spanish interpretation service. More information and scheduling options is available at <https://www.txcourts.gov/tcris/>.

<sup>4</sup> If the facility is a TDCJ facility, judges should contact [coronavirus@txcourts.gov](mailto:coronavirus@txcourts.gov) to see if OCA can assist with getting the facility connected with the court.

<sup>5</sup> [Haggard v. State](#), 2020 WL 7233672 (Tex. Crim. App. 2020)

**hearing shall make all reasonable efforts to make accommodations that will allow the individual(s) to participate. The accommodations that the judges of the County/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. 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.

All person that contact our court will be set up for a Zoom Hearing option to review their cases. All cases will be reviewed by Zoom hearing at the request of citizen. An opportunity will be given to the citizen to mail documents that can be reviewed, or a continuance will be granted to accommodate the citizen.

Any citizen that request a Zoom Hearing but later requests to come to court will be seen in a courtroom that meets social distancing requirements. All courtrooms remain open and there is an average of one to five people per courtroom.

Any citizen that does not want to use Zoom Hearings will be allowed to come into one of our locations to review or resolve their cases if they meet the requirements to enter the building.

All mandatory dockets have been continued past April 2021. There is no requirement that defendants appear in our courts until that time. All appearance through April 1, 2021 are voluntary.

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,

A handwritten signature in black ink that reads "J. Elaine Marshall". The signature is written in a cursive style with a large, stylized initial "J".

J. Elaine Marshall  
Director and Presiding Judge  
City of Houston

## HOUSTON MUNICIPAL COURT COVID-19 UPDATES

New guidelines imposed upon this court by the State require that virtual hearings (Zoom) be made available for defendants that request a virtual hearing. All mandatory and pending in-person court settings are canceled until further notice. There remain other options to take care of your cases. To schedule a virtual hearing by Zoom, please visit the City of Houston Municipal Court site and click on the Virtual Court link for complete information.

You may still pay the fine, apply for driver safety course or deferred disposition at the court. Courtrooms remain open and abide by social distancing guidelines and COVID restrictions. Credit Card payments will also be accepted on-line or by dialing 311. All options to take care of your case by mail are still available and you may obtain the forms found on the Court's website.

Missed court dates will be rescheduled. You may receive a notice of a reset court date by mail depending on the contact information available to the Court. You are encouraged to call 311 to request information about court dates that have been reset if you have not received notice by the court.

### VULNERABLE POPULATION

Individuals who are over age 65 and individuals with serious underlying health conditions such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immunesystems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.

If you are a part of this group, please contact the court at 713-247-8924 and speak to someone regarding a special accommodation and specialize docket/zoom to ensure your continued safety.

Court Hours for all Municipal Court locations and information can be found on our web site at: <http://www.houstontx.gov/courts/>