

Municipal Court

City of Henrietta, Texas

Office: (940)538-6531 Fax: (940)264-4161

John Swenson,
Municipal Judge
101 N. Main
Henrietta, Texas 76365

Cindy Davis, Court Clerk
Cara Willis, Court Clerk

December 9, 2021

Honorable David L. Evans
Presiding Judge, Eighth Administrative Judicial Region
100 N. Calhoun, 2nd Floor
Fort Worth, Texas 76196

Re: Re-Certification of In-Person Operating Plan for Municipal Court of Henrietta,
Texas

Dear Judge Evans:

As required by the Supreme Court's Emergency Orders and Guidance from the Office of Court Administration, please find enclosed, the re-certified First Amended In-Person Operating Plan for Municipal Court of Henrietta, Texas.

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. The local public health authority has determined that local pandemic conditions are conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan. However, I amended the previous plan by adding the criteria, provided in the OCA templet, used to determine when an in-person proceeding is necessary and when all reasonable efforts do not permit the proceeding to be conducted remotely. The Mayor of Henrietta and the Clay County health Officer have signed the plan indicating their approval of the plan.

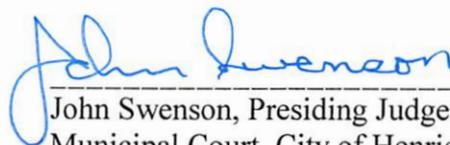
Having completed the required re-certification, I am submitting the plan to you in your role as Regional Presiding Judge. I understand and have communicated to the judges with courtrooms in county/municipal facilities that no in-person hearings will be permitted on or after January 11, 2021, until I receive an acknowledgment from you that the re-certification meets the requirements of OCA's Guidance.

Re-Certification Approved



David L. Evans
Presiding Judge
Eighth Administrative Judicial Region
January 22, 2021

Respectfully submitted,



John Swenson, Presiding Judge
Municipal Court, City of Henrietta, Texas

§ IN THE MUNICIPAL COURT
ADMINISTRATIVE ORDER § OF THE CITY OF HENRIETTA,
 § CLAY COUNTY, TEXAS

**FIRST AMENDED IN-PERSON OPERATING PLAN
FOR THE MUNICIPAL COURT OF HENRIETTA, TEXAS**

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the City of Henrietta Municipal Court will implement the following protective measures:

General

All judges will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including conducting in-person proceedings according to the guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.

1. All judges will use all reasonable efforts to conduct proceedings remotely.
2. The Presiding Judge will maintain regular communication with the Clay County Health Officer and the Mayor. and adjust this operating plan as necessary with conditions in the city.
3. Judges will begin setting non-essential in-person proceedings no sooner than February 1, 2021.

In-Person Hearings

All judges in City of Henrietta Municipal Court, before conducting an in-person hearing shall first determine if an in-person hearing is necessary by following this procedure:

1. The judge shall inform each counsel and pro se litigant that the hearing shall be conducted remotely over Zoom. The judge shall provide each counsel and pro se litigant a phone number or email address to inform the judge if they believe any counsel, their clients, a pro se litigant, any witness, an interpreter, or any other participant (all referred to below as "Participant") cannot participate remotely. The judge or judge's staff shall then determine whether 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;
 - 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; 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 analysis.
 - d. A proceeding where one Participants 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 video conference 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 video conference, 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 video conference 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.

Judge and Court Staff Health

1. Judges and court staff who can perform the essential functions of their job remotely will telework when possible.
2. Judge and Court Staff Monitoring Requirements: Judges and Court Staff will self-monitor for COVID-19 symptoms, daily monitoring body temperature, presence of cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea or having had known close contact with a person confirmed to have COVID-19. Judges or Court Staff exhibiting any of the symptoms noted or measuring temperatures equal to or greater than 99.6 degrees F shall notify the Judge or more immediate superior immediately and arrange for COVID-19 testing with 24 hours of the onset of symptoms.
3. Judges or court staff who feel feverish or have measured temperatures equal to or greater than 99.6°F, or with new or worsening signs or symptoms of COVID-19 such as cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 will not be permitted to enter the building and should seek medical advice.
4. Judges and court staff will be required to wear face coverings, practice social distancing, and practice appropriate hygiene recommendations at all time.
5. Protective Measures: Hand sanitizer and facilities for hand-washing shall be available the Judge and all Court Staff and shall be utilized at the discretion of the Judge or Court Staff according to the individual's timing and discretion.

Scheduling

The following court schedules are established to reduce occupancy in the court building: Civil and criminal dockets will be held separately, with the number of persons permitted in the Courtroom for any purpose limited to 10 persons. Persons participating in court proceedings shall be required to wear non-surgical face masks during the proceedings. Spectators will also be required to wear non-surgical face masks while in the Courtroom. All persons, whether participants in proceedings or spectators are required to maintain a distance of six feet between themselves and the nearest person, with such exceptions as may be granted by the Court.

Vulnerable Populations

1. 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 immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.
2. Each judge will include information on orders setting hearings, dockets notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations. A notice with this information will be posted on the courts' websites and in conspicuous locations around the court building (a copy of which is attached).
3. Vulnerable populations who are scheduled for court will be accommodated by permitting testimony of such persons by affidavit or deposition, providing non-surgical face masks to such persons and by making available hand sanitizer to such persons..

Social Distancing

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.
2. No more than two individuals not from the same household will be permitted in an elevator. If more than one individual from the same household is in an elevator, no other individuals will be permitted in the elevator.
3. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.
4. Public common areas, including breakrooms and snackrooms, have been closed to the public.

Gallery

1. The maximum number of persons permitted in the gallery of each courtroom has been determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff.
2. The gallery of the courtroom has been marked to identify appropriate social distancing in the seating. Seating is limited to every other row.

Well

In each courtroom, the counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space.

Hygiene

1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms.
2. Tissues have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judges' benches, and in the hallways.
3. The Department of State Health Service's "Stop the Spread of Germs Flyer" has been posted in multiple locations on each floor of the court building.

Screening

1. When individuals attempt to enter the court building, the bailiff or courthouse staff, will ask the individuals if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the court building.
2. When individuals attempt to enter the court building, the bailiff or courthouse staff, will use an infrared thermometer to determine the temperature of the individual.

Individuals whose temperature equals or exceeds 99.6° F will be refused admittance to the court building.

3. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 99.6°F will not be transported to the court building.

4. Staff who are screening individuals entering the court building will be provided personal protective equipment, including a non-surgical mask and latex or plastic gloves.

Face Coverings

1. All individuals entering the court building will be required to wear face coverings at all times.

2. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.

3. Individuals who will be required to be in the court building for over 1 hour will be provided surgical masks and required to wear them while in the court building if the supply is available.

Cleaning

1. Court building cleaning staff will clean the common areas of the court building so that common spaces are cleaned at least every 24 hours.

2. Court building cleaning staff will clean the courtrooms between every hearing, between morning and afternoon proceedings, and at the end of each day the courtroom is used.

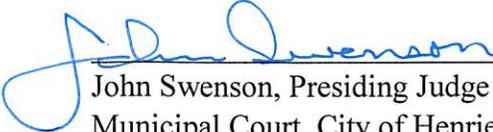
3. Court building cleaning staff have been provided cleaning supplies shown to be effective with this coronavirus.

4. Court building cleaning staff have been trained on proper cleaning techniques and provided appropriate personal protective equipment.

Other

There will be monthly consultations with the city mayor and the county health officer authority to assure that all plans are complied with and adjustments made as necessary. I have conferred with all judges of courts with courtrooms in the court building regarding this Operating Plan. In developing the plan, I consulted with the local health authority and the mayor, documentation of which is attached to this plan. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan conduct proceedings consistent with the plan.

Date: January 8, 2021.


John Swenson, Presiding Judge
Municipal Court, City of Henrietta, Texas

Approved:


Dr. T. David Greer, M.D., Clay County Health Officer


Honorable Howard Raeke, Mayor, City of Henrietta, Texas