



CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. R2019-08-003 adopted at the regular/special meeting of the City of Nogales, Arizona, Mayor and Council, held on the 7th day of August, 2019.

I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 9th day of December, 2020



Leticia Robinson, City Clerk



Resolution No. R2019-08-003

A RESOLUTION OF THE COUNCIL OF THE CITY OF NOGALES, ARIZONA, REFERRING AN AMENDMENT TO CITY CHARTER REPEALING SECTION 71 AND REPLACING WITH NEW CHAPTER VIII-A SECTIONS 1 THROUGH 6 REGARDING THE NOGALES MUNICIPAL COURT TO THE QUALIFIED ELECTORS OF THE ELECTION SET FOR NOVEMBER 3, 2020

WHEREAS, the Charter of the City of Nogales was approved and adopted by the people of Nogales at a special election in 1926; and

WHEREAS, pursuant to article 13 section 2 of the Arizona constitution, charter amendments may be referred by the legislative body of a charter city to the qualified electors at a special or general election for consideration and approval; and

WHEREAS, the Council of the City of Nogales believes that the following question should be submitted to the qualified electors of the City at the upcoming election to be held on November 3, 2020.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Nogales, Arizona, that the following proposed amendment to the City Charter be submitted to the qualified electors at the election to be held on November 3, 2020. :

Proposition [405?]

PROPOSED CHARTER AMENDMENT SUBMITTED BY THE CITY COUNCIL OF THE CITY OF NOGALES

OFFICIAL TITLE: A RESOLUTION OF THE COUNCIL OF THE CITY OF NOGALES , ARIZONA PROPOSING AN AMENDMENT TO THE CITY CHARTER REPEALING SECTION 71, JUDICIARY DEPARTMENT, AND REPLACING WITH NEW CHAPTER VIII-A, SECTIONS 1 THROUGH 6, NOGALES MUNICIPAL COURT

DESCRIPTIVE TITLE: Pursuant to the Arizona Constitution and Revised Statutes, this Nogales City Charter Amendment substantially updates and replaces original Section 71, adopted in 1926, regarding the jurisdiction, name, and hours of operation of the Nogales Municipal Court, as well as the qualifications, authority and term of office of the presiding magistrate judge.

Sec. 71. -- Judiciary department; police court; police judge; fines, penalties and fees; police to serve process, etc.

~~The judiciary department of the city shall consist of a municipal court, and to that end and purpose there shall be and is hereby established in the City of Nogales a municipal court to be known and designated as "The Police Court of the City of Nogales, County of Santa Cruz, State of Arizona," which court shall always be open, except upon nonjudicial days, and on such nonjudicial days it may transact such business within its jurisdiction as is authorized by general law to be transacted by courts of justice of the peace relative to business within their jurisdiction.~~

~~Said court, within the territorial limits of said city, shall have and exercise jurisdiction as follows:~~

(a) It shall have and exercise exclusive original jurisdiction of all proceedings of a criminal nature for the violation of any ordinance of said city, and of every action of a civil nature for the enforcement of a penalty or the recovery of a penalty or forfeiture imposed by any ordinance of said city for violation thereof, or for neglect to perform any duty by any ordinance imposed, and of every action for the collection of any license, tax or penalty due from any person to said city and required to be paid, or which is due and collectible under the ordinances of said city.

(b) It shall have and exercise concurrent jurisdiction with any justice of the peace having jurisdiction of the whole or any part of said city over all matters, both civil and criminal, jurisdiction of which is now or may hereafter be granted to justice of the peace by the laws of the State of Arizona.

The head of said judiciary department shall be the police judge of said police court, who shall be appointed as hereinafter provided.

The mayor and board of aldermen shall provide the police judge with a proper courtroom, with all necessary stationery, furniture and paraphernalia. All fines, penalties and fees not provided by city ordinance shall be the same as provided by the laws of the State of Arizona, and all fines, penalties and fees collected by the police judge in the course and performance of his duties shall be paid to the city treasurer on the first day of each and every month, and proper receipt taken therefor. For the proper carrying out of the jurisdiction vested in said police judge, he shall be and is hereby entitled and authorized to issue and cause to be served all writs and processes, and he shall have full authority to hear and determine all matters properly coming before him and coming within his jurisdiction herein specified. The writs and processes to be used by said police judge shall be similar to those used by justices of the peace in cases of a similar nature, and proper record shall be kept of the issuance of writs and processes and returns, and of any and all other actions taken relative thereto and the actions of the court thereon. The police [officers] of the City of Nogales are hereby authorized and directed to execute and serve any and all writs and processes issued out of said police court by said police judge, and proper return shall be made by such officer, to the same extent as is required of all constables and sheriffs in the service and execution of similar papers.

Until otherwise provided by city ordinance, the provisions of the laws of the State of Arizona relative to changes of venue and disqualification of justices of the peace shall apply to said police court and said police judge, the change of court or judge being to a justice of the peace having jurisdiction within said city.

CHAPTER VIII-A NOGALES MUNICIPAL COURT

Sec. 1. Establishment and jurisdiction; business hours.

- (a) There is hereby established as a separate and independent system within the government of the City of Nogales a city court to be known as the Nogales Municipal Court, County of Santa Cruz, Arizona.
- (b) The Municipal Court shall have and exercise exclusive jurisdiction of all proceedings of a criminal nature for the violation of any ordinance of the City, and every action of a civil nature for the enforcement of a penalty or the recovery of a penalty or forfeiture imposed by any ordinance of the City for a violation thereof, or for neglect to perform any duty by any ordinance imposed, and of every action for the collection of any license, tax or penalty due from any person to the City and required to be paid or which is due and collectible under the ordinance of the City.
- (c) The Municipal Court shall have concurrent jurisdiction with the Justice of the Peace Court for all

violations of the laws of the State committed within the City.

- (d) The Municipal Court shall be open for the transaction of business on any day that the government of the City of Nogales is open for business.

Sec. 2. Presiding Magistrate.

- (a) The City Council shall appoint the presiding magistrate for the Municipal Court. The appointment shall be for a term of four years.
- (b) The presiding magistrate shall be an attorney at law, admitted to the practice of law by the Supreme Court of the State of Arizona, and shall possess and maintain such other qualifications as the City Council by ordinance may adopt.
- (c) The presiding magistrate may be removed for cause by the City Council by motion carried by two-thirds vote, after providing the presiding magistrate with written notice and an opportunity to be heard.
- (d) The presiding magistrate shall have authority to appoint magistrates pro tem and hearing officers as the City Council by ordinance may authorize.
- (e) At any time the office of presiding magistrate becomes vacant, the City Council may appoint a temporary presiding magistrate, which appointment shall not exceed six months.
- (f) The compensation of the presiding magistrate shall be fixed by City Council, which shall not be reduced during the term of office other than by the same percentage reduction imposed by City Council upon all City employees generally.
- (g) The presiding magistrate shall maintain all records of the Municipal Court in a manner established by the administrative office of the Supreme Court of the State of Arizona.
- (h) All financial, administrative and personnel functions of the Municipal Court shall be under the City Manager, with the presiding magistrate as the department director vested with all powers and authority of supervision and management set forth in the City of Nogales Personnel Manual.

Sec. 3. Duty of Council; Disposition of Fines and Penalties.

- (a) The City Council shall provide the presiding magistrate with a proper courtroom and with all necessary stationery, furniture and paraphernalia.
- (b) The City Council shall also provide for a clerical staff necessary for the keeping and maintaining of a proper record of the transactions of the Municipal Court, and the acts, judgments and orders thereof.
- (c) All fines, penalties and fees collected by the Municipal Court shall be paid to the City Treasurer as provided by ordinance.

Sec. 4. Rules of Court.

- (a) The rules of court established by law for the justices of the peace shall apply in the Municipal Court.
- (b) The presiding magistrate shall have authority to adopt such additional rules and administrative orders as necessary and proper for the efficient operation of the Municipal Court.

Sec. 5. Writs and processes.

- (a) For the proper carrying out of the jurisdiction vested in the Municipal Court, the judges thereof shall be entitled and authorized to issue and cause to be served any and all writs and processes, and shall have full authority to hear and determine all matters properly coming before and within its jurisdiction.
- (b) The writs and processes of the Municipal Courts shall be similar to those used by justices of the peace in cases of a similar nature. Proper record shall be kept of the issuance of writs and processes and returns and all other actions taken relative thereto, and the actions of the Court thereon.
- (c) The police of the City of Nogales are hereby authorized and directed to execute and serve any and all writs and processes issued out of said Municipal Court by the judges thereof, and the proper return shall be made by such officer to the same extent required of constables and sheriffs in the service and execution of similar papers.
- (d) The presiding magistrate, magistrates pro tem and hearing officers shall be authorized to administer oaths to witnesses and to perform such other actions necessary and incident to the performance of the duties of a judge in a court of law in Arizona.


Sec. 6. Additional Jurisdiction.

The Municipal Court shall, in addition, have such powers and jurisdiction as is now or may hereafter be granted under the laws of the state for municipal courts in cities incorporated under the general laws of the state.

A "YES" vote shall have the effect of replacing original Section 71 of the City Charter with an updated Chapter VIII-A Nogales Municipal Court.

A "NO" vote shall have the effect of keeping the original Section 71 with its outdated language, organization and provisions.


PASSED, ADOPTED, AND APPROVED by the Council of the City of Nogales, Arizona, this 07th day of August, 2019.


Arturo R. Garino, Mayor

ATTEST:


Leticia Robinson, City Clerk

APPROVED AS TO FORM:


Michael Massee, Interim City Attorney