

IN THE NOGALES MUNICIPAL COURT  
IN THE COUNTY OF SANTA CRUZ, IN AND FOR THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
ADOPTION AND IMPLEMENTATION	)	Administrative Order
OF PRESUMPTIVE STANDARDS FOR	)	No. 2022 - 0003
REMOTE AND IN-PERSON HEARINGS	)	
FOR THE NOGALES MUNICIPAL	)	
COURT	)	

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In June 2021, the Arizona Supreme Court’s COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup (Plan B Workgroup) recommended best practices that should be retained or adapted post-pandemic, which included a recommendation that courts continue to use and expand technology to conduct remote court proceedings. In January 2022 the workgroup reconvened and issued a report, *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World* (“Report”) which includes as Appendix 1 recommendations regarding which hearing types should be held remotely and which should be held in person (“Presumptive Standards”).

On August 3, 2022, the Supreme Court issued Administrative Order No. 2022-88 adopting the Presumptive Standards as set forth in Appendix 1 of the Report and requiring the presiding judge of each municipal court to issue an administrative order adopting standards regarding which hearing types will be held remotely and which hearing types will be held in person. Administrative Order No. 2022-88 allows the presiding judge of the municipal court, after consultation and approval from the presiding judge of the superior court in the county, to adapt the Presumptive Standards as necessary due to limitations in local court resources, bandwidth, technology hardware, software, and staffing or, for good cause, to meet unique needs in their respective cities. It also calls for a draft of the order to be provided to allow for approval by the Chief Justice.

Upon consultation with and approval from the presiding judge of the superior court in Santa Cruz County, pursuant to Supreme Court Administrative Order No. 2022-88, and having been notified that the Chief Justice approves its issuance,

IT IS ORDERED adopting the Chart attached hereto as the presumptive manner for holding hearings set on or after October 1, 2022 in the Nogales Municipal Court.

IT IS FURTHER ORDERED adapting the Presumptive Standards adopted by the Supreme Court for the following hearing types and reasons:

- Ex-parte hearings for Protective Orders – Lacks equipment for video appearances
- Arraignment – Lacks equipment for video appearances

- Change of Plea/Sentencing – Lacks equipment for video appearances
- Pre-trial Conference – Lacks equipment for video appearances
- Other Hearing (including local ordinances and parking) – Lacks equipment for video appearances

IT IS FURTHER ORDERED that hearings in the Nogales Municipal Court must be held in the presumptive manner, but a judge assigned to a case may make a hearing-specific deviation from the presumptive manner in which a hearing must be held if holding the hearing in the presumptive manner is not practical or otherwise not in the interest of justice. The court must provide notice to the parties when such an alternative is utilized.

IT IS FURTHER ORDERED that for any hearing scheduled to be conducted remotely, the individual charged with an offense may elect to attend the hearing in person.

IT IS FINALLY ORDERED that, notwithstanding the presumptive manner for holding hearings and the adaptations to the presumptive manner outlined in this Order, any hearing type, with the exception of criminal trials, may be conducted remotely upon the request of a party, good cause appearing, and consistent with the requirements of applicable rules.

Dated this 7<sup>th</sup> day of December, 2022.



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Robert D Gilliland  
Presiding Judge, City of Nogales, Santa Cruz County

## Appendix 1

### Recommended Remote and In-Person Hearings in the Post-Pandemic World by Case Type and Hearing Types

Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under Arizona Rules of Protective Order Procedure</i></b>			
	Ex Parte Hearing		X
	Contested Protective Order [Evidentiary] Hearing		X
	Other	X	
<b><i>Limited Jurisdiction Proceedings Involving Criminal Misdemeanor Charges; under the Rules of Court Procedure for Civil Traffic, Boating, Marijuana and Parking and Standing Violations (CTBMPSV) and Juvenile Hearing Officer Proceedings</i></b>			
<i>Criminal Misdemeanor</i>			
	Appearance/Arraignment/Initial		X
	Pre-trial Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Change of Plea/Sentencing		X
	Pre-trial Conference		X
	Order to Show Cause		X
	Case Management Conference/Trial Preparedness Conference	X	
	Settlement Conference	X	
	Jury Trial		X
	Bench Trial		X
	Probation Violation Arraignment	X	
	Probation Violation Hearing		X
	Probation Violation Disposition		X
	Other – Non-witness	X	
	Other – Witness		X
	Bond Forfeiture	X	
<i>CTBMPSV</i>			
	Arraignment	X	
	Trial/Contested Hearing		X
	Photo Enforcement Hearing	X	
	Other (including ID Hearings, Local Ordinance, Parking)		X
<i>Juvenile Hearing Officer Proceedings</i>		X	

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**MEMORANDUM**  
Administrative Order  
No. 2022 - 0003

The Supreme Court, having issued an administrative order setting the standard for remote hearings based on hearing types, has required that all Arizona Court likewise adopt standards for the same. Should any court need to deviate from any of those standards based on local circumstances and capabilities, an explanation is also required for each. The following are the hearing types that the Nogales Municipal Court deviates from the state-wide standards. In each case, the Nogales Municipal Court lacks the appropriate video equipment to conduct these hearings with remote appearances.

- Ex-parte hearings for Protective Orders
- Arraignment
- Change of Plea/Sentencing
- Pre-trial Conference
- Other Hearing (including local ordinances and parking)

For ex-parte protective order hearings, our court staff has found that the majority of people requesting an order of protection want to see (and be seen by) the judge. The lack of video equipment makes this impossible. The Court will make a telephonic appearance optional for those ex-parte hearings where the party requests it, but the default will be in person.

Additionally, for the vast majority of cases, there is only one pre-trial conference which also functions as the change of plea and sentencing. Having a telephonic pre-trial conference would make sense for us only if we were to change our practices and have an additional hearing called a pre-trial conference whose sole purpose would be to set an in-person change of plea/sentencing hearing. Without the appropriate technology, the court is unable to do the change of plea/sentencing remotely. Therefore, it is not efficient to set a pre-trial conference by telephone.

The Court's local ordinance hearings provide the defendants the opportunity to meet and resolve their case(s) with the City Attorney's Office. Without an in-person hearing, the parties are less likely to meet to resolve the issues. Therefore, the Court continues holding those cases in person.

Dated this 7<sup>th</sup> day of December, 2022.



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Robert D Gilliland  
Presiding Judge, City of Nogales, Santa Cruz County