

## ORDINANCE NO. 8

AN ORDINANCE ESTABLISHING A CODE OF PROCEDURE IN TRIALS BEFORE THE POLICE JUDGE.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEN OF THE CITY OF HUNTER:

### OFFICERS

SECTION 1. The officers of the police court of the city shall be the police judge, the city attorney, the city marshal and his deputies, and the policemen of the city.

### SESSIONS OF COURT

SECTION 2. The police judge shall hold sessions whenever necessary, Sundays, Christmas, New Year, Thanksgiving Day and Fourth of July excepted; commencing at the hours of eight o'clock in the morning between the first day of May and the first day of October, and nine o'clock in the morning during the remainder of the year, and may hold such sessions as the business may require.

### MARSHAL ATTEND SESSIONS

SECTION 3. The city marshal, by himself and deputies, shall attend all sessions of the court, and shall be present at the opening of the morning session. Special policemen shall attend the sessions when the business of the court shall require such attendance.

### ATTORNEY

SECTION 4. The city attorney shall attend such sessions as the business of the court shall require, and shall enter all charges for violations of the ordinances of this city, when requested by the marshal and special policemen or any other person, and shall prosecute all such cases.

### ARRESTS

SECTION 5. The city marshal and policemen shall arrest without process any and all persons found committing any violation of the laws and ordinances of the city in the presence of such officers.

### PROCEDURE UPON ARREST

SECTION 6. Whenever any person shall be arrested by the marshal or policemen without process for violation of the laws or ordinances of the city, committed in the officer's presence, the officer making the arrest, if it be in the day time, shall forthwith have such person before the

police judge (except as otherwise expressly provided), and shall immediately notify the city attorney thereof if his services are needed.

## TRIAL AND SENTENCE

SECTION 7. Whenever any person shall have been brought before the police judge, as provided in the next preceding section, and the city attorney shall be requested so to do, he shall draw a complaint in writing, against such offender, and, after being sworn to by the officer making the arrest, file the same in the police court, which complaint shall state distinctly the offense, or offenses, with which such person stands charged, and the complaint shall be distinctly read to such person upon his arraignment before the court by the police judge or the city attorney, and such person shall be required to plead "guilty" or "not guilty," and if such person shall refuse to plead, or stand mute, the court shall enter a plea of "not guilty," and if the plea of "not guilty," be entered, the trial shall proceed immediately, unless for good cause shown, an adjournment is granted; and if such person, when arraigned shall plead "guilty" or if found guilty upon trial, the court shall immediately pass sentence upon such person; but the testimony may be submitted at the instance of the city attorney, or defendant, to show aggravation or mitigation of the offense in all cases where the plea of "guilty" is entered.

## ARREST AT NIGHT

SECTION 8. When any person shall be arrested in the night-time by the marshal or policemen without process, as provided in section five of this ordinance such person shall be committed to the city prison until the morning session of the court next to be held thereafter, and shall then be brought before the court and proceeded with as provided in the next preceding section of this ordinance. Provided, however, that the officer making the arrest may take good and sufficient security for the appearance of such person at the opening of the next session of the court thereafter to be holden.

## PERSONS JOINTLY CHARGED

SECTION 9. Several persons jointly charged with the same offense may be tried together or separately, and any person or persons may be tried for several distinct offenses, distinctly set forth in the same complaint.

## COMPLAINT IN WRITING

SECTION 10. Every complaint shall be in writing and shall contain a clear and concise statement of the offense or offenses with which any person may be charged.

## COMPLAINT AMENDED

SECTION 11. A complaint may be amended in matters of substance or form at any time before the defendant pleads, without leave. The complaint may be amended on the trial as to all

matters of form, at the discretion of the police judge, when the same can be done without prejudices to the rights of the defendant. No amendment shall work any delay of the trial, unless for good cause shown by affidavit.

## BOND FOR APPEARANCE

SECTION 12. In any case where an officer making an arrest shall take security for the appearance of the party arrested before the court, the security taken shall be a bond with security for one hundred dollars, or the officer may take the delivery of money or personal property in a sufficient amount to insure the attendance before the court, but in no case less than ten dollars, and the officer shall receipt to the person for what moneys received and for amount fine and costs assessed, nature of the crime and any such security, and, shall deliver the same to the court at the opening session thereafter, and shall deliver the same to the police judge.

## SETTING ASIDE FORFEIT

SECTION 13. If any person, having given security for his or her appearance before the court, shall fail to appear at the proper time, when his or her name shall be called, the security shall be forfeited to the city; and if the security be a bond it shall be proceeded upon as now provided by law; and if it be personal property or money, it shall be disposed of without proceedings, and the proceeds shall be applied in payment of the fine and costs in the case, and the balance shall be paid over to the city. Provided, that any person may have the forfeit of security against him set aside within forty-eight hours after forfeiture, by appearance before the court, and good cause shown against such forfeiture.

## WITNESSES

SECTION 14. The laws governing the competency of witnesses and the general rules of evidence in trials before the police judge shall be the same as in the trial of criminal cases before justices of the peace, and witnesses shall receive the same fees as in the justices' court.

## POSTPONEMENT

SECTION 15. Whenever any person shall have been arrested and brought before the police court, and such person by reason of intoxication or other cause shall not be in fit condition to be tried, such person shall be committed or security taken for his appearance at such time as he may be in fit condition, until such time as the case shall be continued.

## JUDGMENT

SECTION 16. Whenever any person shall have been arraigned before the court for the violation of any of the city ordinances and shall have pleaded guilty to the charge, or whenever any person shall have been found guilty by the court upon the trial of the case, the court shall

immediately assess such fine and punishment for the offense or offenses as shall be provided by ordinances, and shall render judgment for the same, and that such person shall stand committed until the judgment of the court shall have been complied with, and the court shall issue commitment to the city marshal commanding him to commit and safely keep such person until the fine and costs are paid and the judgment of the court shall have been committed.

## JUDGMENT, FINE AND COSTS

SECTION 17. If the judgment against a person be for fine and costs only, the same may be satisfied by paying the amount of such fine and costs to the police judge immediately upon the rendition of judgment.

## ON COMMITMENT

SECTION 18. Upon receiving any commitment, the marshal shall immediately proceed to execute the same, and the marshal may require such person to work out such fine and costs as provided in the succeeding section of this chapter.

## LABOR ON

SECTION 19. The marshal may require such person, if able-bodied, to perform eight hours manual labor each day on the public streets or other places in the city for the benefit of the city, under the direction of the marshal or some other officer of the city; and such person may be continued at hard labor until the fine and costs shall be paid, allowing one dollar and fifty cents for each eight hours' hard labor; and the marshal may in his discretion attach a heavy ball and chain to any such person to prevent his escape while at work, going or coming from work.

## FINE AND COSTS - DISCHARGE

SECTION 20. Every person committed to the city prison of the city for the non-payment of any fine and costs shall be discharged by the city marshal when the said fine and costs shall have been paid or satisfied as provided by law or ordinance.

## RELEASE

SECTION 21. Any person committed to the city prison for the non-payment of any fine and costs, may be released at any time upon the payment of said fine and costs, after deducting there from one dollar and fifty cents for every eight hours labor performed by such person.

## APPLICATION TO COMMENCE PROSECUTION

SECTION 22. All applications to commence prosecution in the police court shall be made to the police judge or the city attorney or the person who shall be acting as such, who shall prepare the affidavit of the person desiring to make the complaint, if, in his judgment there be any just

cause for complaint, and when such affidavit shall be filed in the police court the judge of such court shall issue a warrant for the offender as provided by law.

#### SECURITY OF COSTS

SECTION 23. When an application is made as before provided, for the commencement of a prosecution in the police court of said city against any person, the officer to whom it is made may, in his discretion, before commencing any proceedings require the person making such application to give good and sufficient security for costs in the event the prosecution shall fail, which security shall be given to the police judge before any proceedings shall be commenced.

#### FINES

SECTION 24. The marshal shall pay over to the police judge all moneys collected by him for fines and forfeitures and costs.

#### POLICE JUDGE TO KEEP RECORD

SECTION 25. The police judge shall keep a record of all cases brought before him, and of the cause of complaint with an entry of all of the proceedings had therein, and of the final disposition made thereof; and at the regular meeting in each month shall make to the city council a full and complete report of the proceedings before him and of the preceding month, which report shall state the names of all parties prosecuted before him, the nature of the charge, the amount of fine and costs assessed, the amount paid in and collected, and the final disposition of the case; and he shall transmit with such report all forfeited recognizances in his possession, which report shall be submitted to and approved by the city attorney.

SECTION 26. This ordinance shall take effect and be in force from and after its publication in the official city paper.

Dated this 19th day of February, 1919.

APPROVED: A. Wick, Mayor

ATTEST: E. C. Lemon, City Clerk

