

ORDINANCE NO. 2730

AN ORDINANCE PROVIDING FOR PROCEDURE OF THE MUNICIPAL COURT OF THE CITY OF ALBANY, LINN COUNTY, OREGON; PROVIDING FOR A PRO-TEMPORE JUDGE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: MUNICIPAL JUDGE

The office of Municipal Judge of the Municipal Court of the City of Albany, Linn County, Oregon, is hereby created. The holder of the office shall be selected by the Council to serve at the pleasure of the Council.

Section 2: PRO-TEMPORE MUNICIPAL JUDGE

The office of Pro-tempore Municipal Judge of the Municipal Court of the City of Albany, Linn County, Oregon, is hereby created. The holder of the office shall be selected by the Council to serve at the pleasure of the Council. The officer shall act only when the Municipal Judge is unable to perform his duties by reason of absence from the city, illness, vacations or disqualification by reason of knowledge or relationship to the cause before him. The pro-tempore Judge shall be compensated on a per diem basis.

Section 3: QUALIFICATIONS OF MUNICIPAL JUDGE AND PRO-TEMPORE MUNICIPAL JUDGE

The holder of the office of Municipal Judge and pro-tempore Municipal Judge shall be admitted to the practice of law before the Supreme Court of the State of Oregon.

Section 4: TIME FOR HOLDING COURT

Regular court session shall be held on every Monday evening at the hour of 7 o'clock P.M. unless the day shall be a Legal Holiday in which case court shall be held the evening following. Court shall be held at such other times as the Judge shall deem necessary to fully protect the rights of the persons charged with violations.

Section 5: JURY TRIALS

Any person charged with a violation in the Municipal Court shall have a right to trial by a jury of six (6) persons upon giving notice to the Judge and the deposit of Eighteen Dollars (\$18.00) jury fee at least six days prior to the trial date.

Section 6: JURY LISTS

Upon passage of this Ordinance and upon the first days of January, April, June and September, thereafter, the Recorder shall select fifty names of persons who must have the qualifications of Jurors in State Courts, from the city utility lists to serve as a Jury Panel until the next Panel is selected. No person shall be required to serve more than one term during any calendar year. The selection shall be made at random and the Recorder shall not attempt to select or reject any particular persons. No challenge to the Panel may be made upon substantial compliance of this portion of this Ordinance.

Section 7: SELECTION OF THE JURY

At least two days prior to the trial date the defendant or his attorney and the City Attorney shall appear before the Municipal Judge. The Judge shall then select eight named by lot from the Panel. The defendant or his attorney may then challenge four of the prospective jurors and the city two. Additional names shall be selected to replace those Jurors challenged.

When eight Jurors have been selected, they shall be notified to appear at trial at the appointed time and place. From the eight prospective Jurors, six shall be selected to serve as the Jury. No further peremptory challenge shall be made by either the defendant or the city, but a prospective Juror may be excused for cause.

Section 8: CONDUCT OF TRIAL

Trials shall be conducted as herein provided and all matters not specifically provided for herein shall be governed by the applicable statutes of the State of Oregon for Justice of the Peace Courts. The rules of evidence shall be the same as in State Courts and shall include applicable statutes of the State of Oregon regarding the introduction or admission of evidence.

Section 9: REFUND OF JURY FEE

Should a defendant be acquitted by a Jury, the Jury fee deposited shall be refunded to the said defendant.

Section 10: PAYMENT OF JURORS

The Jurors notified to appear at trial shall receive compensation of \$3.00.

Section 11: POWER OF THE JUDGE

The Judge shall have all inherit and statutory powers and duties of a Justice of the Peace within the jurisdictional limits of the City of Albany. The Chief of Police shall assist the Judge in the serving of subpoenas, notices of jury duty and such other orders of the Court necessary for the proper conduct thereof.

The Judge may, by order, designate a member or members of the Police Department to act as a Clerk of the Court with authority to accept bail in accordance with a minimum bail schedule established by the Court.

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The Judge shall be responsible for the keeping of such dockets and accounts necessary to properly record all proceedings of the Municipal Court.

In criminal cases in Municipal Court the cost and disbursements shall be added to the fine penalty or sentence imposed in a sum not less than \$5.00; provided, the court, at its discretion in justifiable cases, may on behalf of the city, waive payment of all or part of the costs and disbursements, except jury fees, in excess of five dollars.

Section 12: EFFECTIVE DATE

Section 40 of the Charter provides that, in an emergency, an Ordinance may take effect immediately. By reason of the adoption of the Charter by the people of the City of Albany at an election on November 6, 1956, and the provision that the Council should provide by Ordinance a method of selection and payment of juries, and the said Charter further provides that the effective date of the Charter is January 1, 1957, an emergency is declared to exist and this Ordinance shall be effective immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council: January 23, 1957

Approved by the Mayor: January 23, 1957

Effective Date: January 1, 1957

W. L. Fitzpatrick

Mayor

ATTEST:

Arthur P. Johnson
Recorder