

ORDINANCE NO. 64

AN ORDINANCE TO PROVIDE FOR TERMS OF THE MUNICIPAL COURT, TO PROVIDE FOR A JURY COMMISSIONER AND THE SUMMONING AND SELECTION OF A JURY, SETTING FORTH QUALIFICATIONS OF JURORS, FIXING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE, PRESCRIBING COURT PROCEDURE, SETTING JURY FEES, COUNSEL FEES, AND OTHER COSTS, AND GRANTING THE POWER TO SENTENCE DEFENDANTS OR SUSPENDING SUCH SENTENCE, AND DECLARING AN EMERGENCY.

Be it enacted by the Board of Trustees of the Town of Hudson, Colorado:

Section 1. Terms of Court. Each of the terms of the Municipal Court of Hudson shall be for a duration of two months, beginning on the first Monday of January of each year and on the first Monday of each of the odd-numbered months thereafter.

Section 2. Demand for Jury. In all trials before or in the Municipal Court of the Town of Hudson, Colorado, in cases arising under the ordinances of the Town of Hudson a defendant shall have the right to a trial by jury, and such defendant may demand a jury, which shall consist of six (6) jurors, or a smaller number not fewer than three (3), if the same be agreed upon by the Town of Hudson and the defendant; in every case the defendant shall have the right to waive a trial by jury and to have his cause tried by the Court.

Section 3. Jurors' Qualifications. (1) All residents of this Town of the age of twenty-one (21) years who have not been convicted of a felony shall be competent to serve as jurors in the Municipal Court. (2) The Judge of the Court in which the trial of the case for which prospective jurors have been summoned shall have the right, upon good cause being shown, to exempt or excuse any prospective juror from service.

Section 4. Jury Commissioner. The Jury Commissioner of the Municipal Court shall be the Town Clerk, and he shall serve for the same term as his appointment as Town Clerk without additional compensation. Any Deputy Town Clerks that may be appointed are hereby appointed Deputy Jury Commissioners and shall have the same

powers as the Jury Commissioner in his absence.

Section 5. Preparation of a List of Persons Believed to be Qualified for Jury Service. On or before the first day of June of each year the Jury Commissioner shall prepare a list of persons whom he believes may be qualified to serve as jurors, which list shall include not less than the names of one hundred (100) persons.

Section 6. Questionnaire--Penalties. The Jury Commissioner shall, as soon as the list provided for in Section (5) has been prepared, mail to all persons whose names appear on said list an examination form containing a list of pertinent and necessary questions to be answered in writing, including the name, age, occupation, residence, and such other facts as may show whether a person is qualified to serve as a juror. Each person receiving such questionnaire shall answer truthfully the questions therein contained, in writing, and shall return said questionnaire to the Jury Commissioner within ten (10) days after the receipt of the same. Every person receiving such questionnaire and failing to return the same as provided for herein or who shall answer any of the questions on said questionnaire falsely shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed One Hundred (\$100.00) Dollars or by imprisonment not to exceed thirty (30) days.

Section 7. List of Prospective Jurors. The Town Clerk shall, when he has received all of the questionnaire answered by prospective jurors enter the names alphabetically of those persons qualified to serve as jurors in a suitable book, together with the occupation and place of residence of each person named on said list. The persons whose names appear on this list shall be available for jury service from the first day of July in the year in which they were selected to and until the 30th day of June of

the following year. The book containing the jury list shall be kept in the office of the Jury Commissioner and shall be open to public inspection.

Section 8. Drawing of Prospective Jurors. The Jury Commissioners shall as soon as the jury list is completed, write the names of the prospective jurors on ballots, one name on each ballot, and shall place such ballots in a box to be kept for that purpose. Upon order of the Judge of the Municipal Court, the Commissioner shall, in the presence of the Mayor of the Town, draw by chance from the box in which the names had been placed a sufficient number of jurors for the next term of Court. When so drawn the names shall be certified by the Jury Commissioner to the Judge of the Municipal Court, who shall, when a jury is needed, issue a venire to the Chief of Police to summon the number of jurors that the Judge shall deem necessary for the trial of the case or the cases then pending before the Court, and shall make the venire returnable as the Court may order. The Court shall fix the trial of jury cases for some definite time and shall try cases successively by the same panel of jurors so far as is practicable. That when any juror has been summoned to sit as a juror on five (5) cases such juror may be excused from further jury service until the first day of July next, if he so desires.

Section 9. How Summoned. Jurors selected in accordance to the provisions of this ordinance shall be summoned to attend upon the Court by writ of venire facies directed to the Chief of Police, and such writ may be returnable upon any day of the term as the Court shall direct.

Section 10. Additional Venire. If at any time the number of ballots in the ballot box shall be reduced to twelve (12) or less the Judge of the Municipal Court, in his discretion may direct the Jury Commissioner to prepare an additional list of persons

he believes may be qualified to serve as jurors and to process the names on said list in accordance with the provisions of Sections 6, 7, and 8 of this ordinance. The Commissioner shall thereupon certify to the Judge of the Municipal Court the names of the prospective jurors so drawn. Whenever the panel is exhausted or for any other reason there are not a sufficient number of jurors from the panel available to try the case, the Court shall have the power to summon a jury from the bystanders, or the Court may issue an open venire, which shall be in substantially the following form:

STATE OF COLORADO )  
                          ) ss  
COUNTY OF WELD    )

The People of the Town of Hudson, Weld County, Colorado,

TO: \_\_\_\_\_

GREETINGS:

We command you to summon \_\_\_\_\_ persons of the Town of Hudson, State of Colorado, to appear before me at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, who are not of kin to \_\_\_\_\_, defendant\_\_\_\_, to make a jury between the Town of Hudson, Colorado, and the said defendant\_\_\_\_, \_\_\_\_\_, in a plea of not guilty to a charge of the violation of one or more of the ordinances of the said Town of Hudson; and have you then and there the names of the jury and this writ.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_,

19 \_\_\_\_\_.

\_\_\_\_\_  
Judge of the Municipal Court

(SEAL)

Section 11. Juror Failing to Appear--Penalty. If any person who shall be lawfully summoned to appear before the Municipal Court as a juror shall fail, neglect, or refuse to appear as required by such summons, without reasonable excuse, he shall be deemed guilty of contempt and fined or imprisoned as the

Court may direct. The Court shall have the power to issue an attachment directed to the Chief of Police commanding him forthwith to bring before such Court or Judge the body of such juror so failing to attend and to show cause why he should not be punished for contempt, and on the appearance of such juror on such attachment it shall be lawful for such Court or Judge to punish him for contempt or wholly discharge him if satisfactory excuse be made.

Section 12. Challenges for Cause. The Judge of the Municipal Court shall pass on all challenges and objections to jurors, and the Judge shall have the power to rule on all questions of evidence and the admissibility thereof in the same manner as a Judge of a court of record.

Section 13. Peremptory Challenges. In all cases arising under the ordinances of the Town of Hudson wherein a jury trial is had each party shall be entitled to three (3) peremptory challenges.

Section 14. Verdict--Sentence. Upon the jury returning their verdict of guilty the Judge shall record the same in the docket and shall proceed to fix or determine the punishment, penalty, or sentence, and to render judgment upon such verdict for the punishment, penalty, or sentence so determined by him and for costs; but if the jury return a verdict of not guilty the Judge shall record the same and discharge the defendant or defendants without costs.

Section 15. Plea of Guilty. If any person accused of violating any of the provisions of the ordinances of the Town of Hudson having a right to trial by jury shall confess himself guilty, the Judge of the Municipal Court without a jury shall hear the evidence and fix and determine the sentence, penalty, or punishment, and such Judge shall enter judgment and issue execution thereon.

Section 16. Directed Verdict. The Judge of the

Municipal Court shall have the power to direct verdicts in favor of the defendant when the evidence presented is insufficient to sustain the guilt of the defendant.

Section 17. Costs--Fees. The per diem fee for all jurors shall be Three (\$3.00) Dollars. Upon a verdict and judgment of guilty all costs of the trial may be assessed to the defendant, including counsel fees, expenses of meals and provisions for the jury, jury fees, and court costs. Said costs shall be paid in to the Municipal Court. Upon a verdict and judgment of not guilty all of said costs shall be paid by the Town of Hudson.

Section 18. Procedure of Trial. In the event the Town or the defendant is not represented by counsel, the Judge may interrogate witnesses to the end that justice will be served. Indigent persons, upon proof of that fact, may have counsel appointed to represent them, and such counsel appointed shall have his fee set by the Court, but in no event shall such fee exceed Twenty-five (\$25.00) Dollars for each day devoted to the trial of the case, and said fee may be assessed as part of the costs.

Section 19. Instructions to Jury. At the conclusion of all of the evidence, and before the arguments of counsel, the Judge shall read to the jury the ordinance or ordinances alleged to have been violated by the defendant and shall orally instruct the jury as to any points of law that the Judge believes to be pertinent to the issues to be determined by the jury. Counsel for either of the parties may submit written instructions to the Judge of the Municipal Court and the Judge, if he believes said instruction to be proper, shall read the same to the jury.

Section 20. Suspended Sentence. The Judge shall have the power to suspend all or any part of the sentence, whether it be fine or imprisonment, upon such conditions believed to be proper by the Court under the circumstances. The Court shall have

the power to retain jurisdiction of the defendant for a period of eighteen (18) months after the suspension of any sentence. The Court shall have the power to revoke any suspended sentence within eighteen (18) months after the date of suspension.

Section 21. Repeal of Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 22. Constitutionality. If it be determined that any of the provisions of this ordinance are unconstitutional, such declaration shall not affect the validity of any of the other provisions of this ordinance.

Section 23. Emergency Clause. The Board of Trustees find that an emergency exists and that this ordinance is necessary for the immediate preservation of the public safety, and determine that it shall take effect immediately upon its passage and publication.

Adopted and Approved this 9<sup>th</sup> day of <sup>APRIL</sup> ~~March~~,

1963.

Dewey C. Wilcox  
Mayor

(SEAL)

ATTEST:

Burnette McCarthy  
Town Clerk