

ORDINANCE NO. 258

AN ORDINANCE RELATING TO PROCEDURE IN THE POLICE MAGISTRATE'S COURT OF THE TOWN OF BERTHOUD IN CASES ARISING UNDER THE ORDINANCES OF SAID TOWN.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. JURY TRIAL.

(a) Demand for Jury. In all trials before the Police Magistrate of the Town of Berthoud in cases arising under the ordinances of said Town, wherein a defendant shall have the right to a trial by jury, such defendant may demand a jury trial, said jury to consist of six (6) jurors, or a less number not fewer than three (3) if the same be agreed upon by the said Town and the defendant, and thereupon the said Police Magistrate shall issue a venire for the jury, directed to any person authorized to serve writs or other process issued in cases in said Police Magistrate's Court, which shall be substantially in the following form:

State of Colorado)
County of Larimer) ss

THE PEOPLE OF THE STATE OF COLORADO, To _____

Greeting:

We command you to summon _____ persons of the Town of Berthoud, State of Colorado, to appear before me at _____ on the _____ day of _____, 19____, who are not kin to _____, defendant_, to make a jury between the People of the State of Colorado and said defendant_, in a plea of not guilty to a charge of a violation of one or more ordinances of the said Town, because the said defendant_ ha_ demanded trial by jury; and have you then and there the names of the jury and this writ.

Witness my hand and seal, this _____ day of _____, 19____.

Police Magistrate (SEAL)

(b) Attachment for Jurors. Contempt. In all cases where a person shall be summoned as a juror to try any cause before the Police Magistrate of the Town of Berthoud, and shall fail to attend at the time and place appointed in such summons, the said Police Magistrate shall have power to issue an attachment, directed to any person authorized to serve warrants of arrest in cases in said Court, commanding him forthwith to bring before such Police Magistrate the body of such juror so failing to attend, 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 the Police Magistrate to punish him for contempt by a fine of not less than one (\$1.00) dollar nor more than ten (\$10.00) dollars, or wholly discharge him if satisfactory excuse be made.

(c) Challenges for Cause - - Peremptory. If nay juror summoned shall be interested in the event of the case or kin to a defendant, or shall have expressed his opinion on the matter to be tried, or shall, for any cause to be judged by the Police Magistrate be considered as a partial or improper juror, the Police Magistrate shall discharge such juror; and when, by such discharge, or the failure of a juror to attend, the jury shall not be complete, the judge shall direct any person authorized to serve writs or other

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process issued in cases in said Court to summon as many persons as shall be required to complete such jury, instantly, from among the bystanders or other persons in the Town of Berthoud, which summons shall be verbal; and the person so summoned shall be bound to serve on such jury, and on refusal or failure to do so may be attached and punished for contempt. In all cases arising under the ordinances of the Town of Berthoud wherein a jury trial is had, each party shall be entitled to three (3) peremptory challenges.

(d) Verdict - - Sentence. Upon the jury returning its verdict of guilty the Police Magistrate 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 returns a verdict of not guilty, the Police Magistrate shall record the same, and discharge the defendant or defendants without costs.

(e) Plea of Guilty. If any person accused of violating any of the ordinances of the Town of Berthoud having a right to trial by jury shall confess himself guilty, the Police Magistrate, without a jury, shall hear the evidence and fix and determine the sentence, penalty or punishment, and such Police Magistrate shall enter judgment and issue execution thereon.

Section 2. In the opinion of the Board of Trustees an emergency exists, by reason of the fact that the Colorado Supreme Court has recently held that jury trials are mandatory in certain cases of violations of municipal ordinances, and this ordinance is necessary for the immediate preservation of the public health, peace and safety of the Town of Berthoud and shall take effect five (5) days after its approval and publication.

Passed, adopted and approved this 13th day of May, 1958.

Attest:

Viola Barrowman
Clerk

Thomas C. Blum
Mayor

