

ORDINANCE NO. 14.

An Ordinance Concerning Proceedings Before the Police Magistrate.

Be it Ordained by the City Council of the City of Grand Junction:

SECTION 1. Whenever any fine, forfeiture or penalty shall be imposed for the breach of the provisions of any ordinance of the city of Grand Junction, the same may be recovered in an action in the name of the city of Grand Junction, before the police magistrate.

SEC. 2. In actions for violation of ordinances when commenced by summons, the summons shall issue whenever the city attorney shall file with the police magistrate a statement, giving the number of the section and title of the ordinance violated, together with the date of its passage signed by him, which statement may be in the following form:

The City of Grand Junction,)
Plaintiff,)
vs.) s. s.
A. B. _____)
Defendant.)

The said defendant is indebted to plaintiff in the sum of not less than—dollars, and not more than—dollars, for violation of the provisions of (here insert number of section and title of ordinance violated), passed by the city council, the.....day of.....A. D., 189.. (Signed) C. D. City attorney.

Or if any person shall on oath make complaint that any one has violated any ordinance of this city, stating the number of the section and title of the ordinance violated, together with the date of its passage, the summons may issue as hereinafter provided.

SEC. 3. The summons mentioned in the preceding section may be in the following form:

State of Colorado,)
Mesa county,) s. s.
City of Grand Junction.)

The people of the State of Colorado; To the marshal or any police officer, or Constable of said city, greeting;

You are hereby commanded to summon A. B....., to be and appear before me at my office in Grand Junction, county and state aforesaid, on theday of..... A. D., 189... ato'clock, M., to answer a certain complaint, wherein the city of Grand Junction is plaintiff and A. B.... is defendant, for a demand of not less thandollars nor more thandollars, for the violation of the provisions of Sec., of an ordinance of said city, entitled an ordinance....., passed.....A. D., 189..., and thereof make due return according to law.

Given under my hand and seal thisday of.....A. D., 189... Police Magistrate.

SEC. 4. If any person shall on oath make the complaint mentioned in section 2 hereof, the police magistrate may issue a warrant for the arrest of the offender, which warrant may be substantially in the following form:

State of Colorado,)
County of Mesa,) s. s.
City of Grand Junction.)

The People of the State of Colorado; To the marshal or any police officer or constable of said city, greeting;

Whereas..... has complained on oath before me that..... did, on the.....day of.....A. D., 189..., at and within said county and city, violate the provisions of sectionof an ordinance of the City of Grand Junction, entitled (here insert the title) passed by the city council on the.....day of.....A. D., 189..

Now, therefore, you are hereby commanded to take the body of said..... and bring him forthwith before me to be dealt with according to law.

Given under my hand and seal, thisday of.....A. D., 189..

Police Magistrate.

SEC. 5. Upon the filing of the statement or complaint mentioned above, the police magistrate shall enter the case upon his docket in the usual manner required by law, and shall issue a summons returnable in not less than five nor more than fifteen days, or a warrant returnable forthwith, as the case may require. Whenever any person has been arrested on view or otherwise, according to law, without a warrant, the police magistrate shall enter in his docket the fact of his arrest and by whom made, and the officer making the arrest shall file a complaint on oath as above provided.

SEC. 6. No action before the police magistrate shall be dismissed for any defect of form in the statement or complaint, and such statement or complaint may include several persons charged with the same offense.

SEC. 7. Any person arrested by virtue of a warrant, issued as herein before provided, may be admitted to bail by executing a bond to the city of Grand Junction with surety to be approved by the police magistrate, in double the amount of the highest penalty for the offense charged, conditioned that he will appear on a day and at an hour therein to be named, before said police magistrate and not depart the court without leave, which bond shall be attested by the police magistrate and filed in his office and an entry of the filing thereof made in his docket; provided, that in no case shall the penalty in such bond exceed the sum of three hundred dollars.

SEC. 8. If the defendant charged with violating any city ordinance fail to appear according to the conditions of any bond which he may have given for his appearance, or appearing, shall depart the court without leave, the police magistrate shall enter judgment against him and his sureties for the penalty of said bond.

SEC. 9. Upon entering such judgment the police magistrate shall issue a process in the name of The People of the State of Colorado, against said sureties, requiring them to appear on a day therein mentioned, not more than ten days from the date of its issuance, and show cause, if any, why said judgment should not be made final and execution issued thereon. If said defendant or his sureties shall appear on the day mentioned in said process, and show good cause for the breach of the conditions of said bond, said judgment shall be set aside, otherwise it shall be made final and execution shall issue thereon. Said process shall be served in the manner provided for service of summons issued by justices of the peace.

SEC. 10. A party in custody who cannot be tried on account of the absence of witnesses or other cause, and who cannot give bail for his appearance, may be confined in the city jail or other place of confinement provided for that purpose, not exceeding three days, unless the defendant shall apply for a further continuance, and in every case the police magistrate shall deliver to the officer committing such person a commitment stating the cause of such detention.

SEC. 11. When a defendant, duly summoned, fails to appear at the time the suit is set for trial, the police magistrate shall hear and examine the testimony offered on the part of the city, and shall render judgment by default against the defendant, for such an amount as under the ordinance, the police magistrate may deem proper.

SEC. 12. In all cases before the police magistrate for any violation of a city ordinance, the defendant may demand a trial by jury, upon paying the jury fees in advance. The jury shall consist of such number and possess the same qualifications as required by law in trials before justices of the peace. If the jury find the defendant guilty, they shall assess the penalty, except in case the same is specially determined by ordinance, and the police magistrate shall enter judgment against the defendant for the amount so assessed together with costs. Jurors and witnesses shall receive the fees provided by law and jury fees shall not in any event be taxed against or paid by the city.

SEC. 13. Upon the rendition of judgment against any defendant for the violation of any ordinance of this city, the police magistrate shall make an order and enter the same upon his docket that if the defendant neglect or refuse to satisfy such judgment, and costs of suit, he shall be confined in the city jail or other place of confinement provided for that purpose, until such judgment and costs shall be fully paid; provided, no such imprisonment shall exceed ninety days for any one offense. Execution shall be issued immediately upon the rendition of judgment.

SEC. 14. Every person against whom any penalty or fine shall be recovered, under the ordinances of the city, who shall refuse or neglect to pay the same, when demanded upon execution and shall be committed in default thereof as provided in the foregoing section, shall be required to work upon the streets of Grand Junction or at such other labor for the city as may be required of him by the city marshal or street commissioner, not less than eight nor more than ten hours each day, and for such work the person so employed shall be allowed, exclusive of his or her board, the sum of two dollars per day for each days work, on account of such fine and costs, and if such person shall refuse to labor as aforesaid, or to comply with the directions of the marshal or street commissioner in relation thereto, such person shall be kept in close confinement, on a diet of bread and water; but no such confinement shall exceed ninety days.

SEC. 15. In all prosecutions for the violation of any ordinance, any officer of the city shall be a competent witness.

SEC. 16. The police magistrate and marshal, in all matters pertaining to the duties of their respective offices, in judicial proceedings, and concerning which there is no specific provision by ordinance or state statute, shall be governed by the laws of this state, regulating the practice and proceeding in cases before justices of the peace, and the duties of justices of the peace and constables, so far as the same may be practicable.

SEC. 17. In all prosecutions for fines and penalties, when the defendant shall be acquitted, the police magistrate shall tax the costs against the prosecuting witness or informer, whenever it shall appear that such prosecution was instituted maliciously, vexatiously or without reasonable cause.

Passed this 26th day of September, A. D. 1891.

EDWARD W. GANNON,

Temporary President.

Attest: FRANK McCLINTOCK,
City Clerk Pro Tem.

Edward W Gannon
Temporary President
Frank McClintock, City Clerk
Pro tem