

A GENERAL ORDINANCE TO BE DESIGNATED AS CHAPTER XXX OF THE CODE OF THE TOWN OF LUMBERPORT ESTABLISHING A POLICE COURT, IT'S JURISDICTION, THE APPOINTMENT OF A JUDGE OF SAID COURT, IMPOSING COSTS AND FIXING THE ITEMS AND AMOUNTS THEREOF, AND PROVIDING FOR THE MANNER OF COLLECTING SUCH COSTS AND THE DISPOSITION OF THE SAME.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF LUMBERPORT:

That a new Ordinance for the establishing of a Police Court for the Town of Lumberport and the appointment of a Judge of said Court, and imposing costs and providing for the manner of collecting such costs know as Chapter XXX (30) of the Ordinances of the Town of Lumberport be enacted to read as follows:

ARTICLE 1.

POLICE COURT:

JURISDICTION

Section 1. The Council shall establish a Police Court for the Town, which Court shall have such jurisdiction and powers as are now or may hereafter be prescribed by general law.

Section 2. The Police Court shall have jurisdiction over all offences against or violation of the ordinances of said Town, and authority to inflict punishments for such violations in the manner lawfully prescribed by such ordinances upon and against offenders of violators of the same: Provided, however, that no jury shall be allowed in any trial in said court for the violation of any ordinance of the Town.

Section 3. The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall conform to the relations so far as they are applicable, prescribed in Chapter 50 of the Code of W.Val, for the enforcement of penalties against persons convicted for misdemeanors; but the Judge of said court by capias pro fine or other process may cause the defendant to be arrested and brought before said court to be dealt with according to law.

Section 4. In cases where evidence discloses such a violation within the Town, the law of the state that, in the opinion of the judge of the police court, the persons accused should be committed to wait the action of the grand jury upon an accusation made, the judge of the police court shall have the same jurisdiction and power as a justice of the peace in the County of Harrison in regard to the apprehension commitment and admission to bail of the person so accused: and in the exercise of such jurisdiction and powers shall be governed by the same regulations.

*Original
Court Judge Ordinance
1965*

Section 5. The said court shall have full power and authority to enforce its orders and judgement by any process of law which may be necessary and proper for the purpose, and all processess, executions and orders of said Court shall be signed by the judge. Such process and executions shall be directed to the Chief of Police of said Town, and be executed by him or one of his deputies. In the execution of any process or order of said Court, the chief of police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the Sheriff of Harrison County, West Virginia, in the performance of like services. There may be charged for the services of such officer the same fees as the sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said court shall be collected by the chief of police and accounted for and paid by him to the treasurer of the city. The Town shall in no event be liable for any such fees.

Section 6. The judge of said court shall have authority to administer oaths within said town, and shall perform such duties as may be required of the judge of said court, or be prescribed by rule or order of the council. Such judge may charge the same fees for his services as are allowed to be charged by justices of the peace for like services, and such fees shall be collected by him in like manner as fees of the clerk of the criminal court are collected, but all such fees shall be accounted for by him to the Town and paid over to its treasurer.

Section 7. A docket and other books required for the records and a seal shall be provided for the said court by the council, and the seal may be altered or renewed as the said Court may direct. Full faith and credit shall be given to the records of said court and the certificate of its judge, whether the seal of the said court be fixed thereto or not, in like manner and with the same effect as if the same were records of the criminal court similarly authenticated.

Section 8. The said police court shall have power, upon rendering judgement against a defendant charged with the violation of an ordinance of the Town, to render judgement against him also for the costs of prosecution. In every suit or prosecution for the violation of an ordinance the said court shall cause the person or persons at whose instance it was instituted to be designated upon the warrant or writ issued to arrest or summon the person charged, and if the person or persons charged shall not be convicted in such court, and such court shall be of the opinion that no sufficient or probable cause existed for the institution of the said suit or prosecution, then judgement for the costs of the town, and of the defendant, or of either of them as the Court shall deem just, shall be rendered against the person or persons at whose instance such suit of prosecution was instituted.

Section 9. The sessions of said Court shall be at such time and places as the Judge of said Court shall direct.

Section 10. A judge of said court shall be appointed by the council to serve at its will and pleasure.

Section 11. The Judge shall be at least 21 years of age, a citizen of the United States, a resident and registered voter within the Town of Lumberport, and shall be a person of good moral character and such person as the Council shall deem qualified for such services and appointment.

Section 12. The Police Judge shall be paid upon a fee basis.

Section 13. In the event of and during the temporary absence or disability of the Police Judge, the Council shall appoint a qualified person to preside over said Court, and perform the duties of the Judge thereof, and the fees payable to said Judge for services shall be transferred to and paid such temporary judge for the time he serves as such.

Section 14. The supervision and direction of the Police Department of the Town of Lumberport shall remain under the authority and powers of the Mayor of said Town.

ARTICLE 11.

COSTS AND PROCEEDINGS

Section 1. In every criminal case or proceeding instituted in the police court of the Town of Lumberport, wherein there is conviction upon the plea of guilty, nolle contendere, or upon a finding of guilty by the court, there is hereby imposed, and where possible, there shall be collected the following items of costs, to-wit:

(a) The Police Judge shall charge a fee of three dollars and fifty cents in each criminal case or proceeding had before him, in which the defendant is found guilty in any of the way aforesaid, which shall be in full for the following services rendered in any single case: Including affidavit for warrant, search and seizure warrant, warrant for arrest, trial examination, issuing subpoenas and copies thereof, swearing witnesses and certifying their attendance, entering judgement and taxing costs, and all other acts in connection therewith, except that he shall charge, and where possible, collect an additional fee of fifty cents for making and certifying a transcript of his docket in any particular case and transmitting the same to the clerk of the criminal court, the State Road Commission, or any other office to which he may be by law required to certify any transcript of his docket; and the additional sum of two dollars for bond recognizance, fifty cents for issuing an execution or capias profine.

(b) In every criminal case or proceeding had before the Police Judge aforesaid, the following additional items shall be charged as costs:

For an arrest in case of a felony -- \$1.50.

For an arrest in a case other than felony -- \$1.00.

For serving a subpoena -- 50¢.

For executing a search warrant -- \$2.50.

For levying an execution or making an arrest under capias pro fine-- \$1.00.

Ten cents per mile for each mile of necessary travel of the police officer in the performance of duties in any case under the ordinance, and ten cents per mile for transporting prisoners.

Section 2. The police judge shall issue executions for all fines and costs imposed by him in any criminal case or proceeding within ten days from the date judgment is entered by him on his docket, where satisfactory arrangements for satisfying the same have not been made prior to said time, and shall deliver such executions to the chief of police of the Town of Lumberport, who shall collect the same by levy or otherwise, if the same can be collected and shall return such executions to the police judge within thirty days, showing how he has executed the same, and the said judge shall note such returns on his docket, showing how the same has been executed.

Section 3. All costs incurred in criminal cases and proceedings had in the police court of the Town of Lumberport shall be charged to and collected from the defendants, and, when collected shall be paid to the recorder of the Town of Lumberport, who shall issue receipts therefore and who shall deposit the same.

Section 4. For the purpose of this ordinance, a forfeiture of cash bail or cash collateral deposited to secure a defendant's or defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a plea of nullo contendere, and treated as a conviction in the direction of the court, and the cash so forfeited, may be applied to any fine and costs assessed by the court.

Section 5. If any section, paragraph, clause or provisions of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not effect any of the remaining provisions of this ordinance.

Section 6. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 7. This ordinance shall be in full force and effect from and after the 1st day of January, 1965.

Section 8. This ordinance shall be published once each week for two successive weeks in The Shinnston News, published in Shinnston, West Virginia.