

ORDINANCE NO. 589

AN ORDINANCE PROVIDING FOR JURY LIST AND JURIES IN THE MUNICIPAL COURT OF THE CITY OF CANBY, OREGON; PROVIDING FOR THE NUMBER AND QUALIFICATIONS OF JURORS AND THE MANNER OF SELECTING SAME; PROVIDING FOR THE RIGHT TO TRIAL BY JURY IN SAID MUNICIPAL COURT; REPEALING ORDINANCE NO. 476; AND DECLARING AN EMERGENCY.

WHEREAS, The Legislature of the State of Oregon has heretofore enacted, and the Governor of the State of Oregon has approved a law providing that in the prosecution for crimes or offenses defined and made punishable by any city charter or ordinance, the defendant shall have the right of trial by jury, and that juries, in such cases, shall be selected from the latest tax roll and registration books used at the latest city election in the same manner in which juries are selected for Circuit Court; and

WHEREAS, Ordinance No. 476 is in part contrary to the provisions and procedures of the right to a jury trial, selection of jury list, and the number and qualifications of jurors and the manner of selecting same, and by reason thereof the City of Canby deems it necessary to enact an appropriate ordinance, therefore:

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Right to Jury Trial. A person charged with an offense defined and made punishable by the City Charter or an ordinance of the City of Canby shall have the right to trial by jury when the alleged offense is the same as those offenses which entitle a person to trial by jury as guaranteed by the Constitution of the United States of America and the Constitution of the State of Oregon. Provided that written notice of request for a jury trial shall be given the municipal judge within ten (10) days after the entry of a plea of "not guilty" to the charge.

Section 2. Trial Jury Defined. The trial jury in a municipal court shall consist of six persons, or a lesser number if agreed upon, duly sworn to try and determine a question of fact for which they are called.

Section 3. Qualifications of Jurors. In order to act as a juror in the municipal court in the City of Canby, a person must:

(1) Meet the qualifications prescribed in Chapter 10, Oregon Revised Statutes,

(2) Be an inhabitant and reside within the City of Canby for three months at the time when he is summoned.

Section 4. Making of Preliminary Jury List. On the first judicial day of each January and July, the City Recorder or Mayor, at the request of the Municipal Judge, shall prepare a jury list made by selecting by lot names from the latest tax roll and voters registration list used at the last preceding city election. The jury list shall contain the names of not less than one hundred persons who shall comprise the jury list for the six months in which they are selected. The Municipal Judge or Mayor shall reject the names of persons selected for the jury list whom they know or believe to be unqualified as jurors because of mental or physical disability, or not otherwise possessing those qualifications for a juror as prescribed by this Ordinance. The jury list, when completed, shall contain the Christian name and surname and the place of residence and occupation of each person named therein, and shall be certified by the Municipal Judge and placed on file in his office. After the jury list has been completed, a card shall be prepared separately for each juror, and the cards when prepared shall be deposited in the office of the Municipal Judge in a sufficient box carefully secured which shall be known as the Jury Box. If for any reason the preliminary jury list is not prepared within the aforesaid time, it

may be prepared at a later time without effecting the validity thereof.

Section 5. Determination of Jury Panel when Jury is demanded and there is a Right to a Jury Trial. The Municipal Judge shall draw from the jury box twelve cards, or any greater number if he deems it necessary or if requested by the parties, until the names of twelve persons who are deemed able to attend at the time and place required are obtained. The Municipal Judge shall then make and sign a list of the twelve names thus drawn, to be the jury panel.

If it appears to the Municipal Judge that a person whose name is drawn is deceased or resides outside the City, the card must be destroyed. If it appears to the Municipal Judge or if he has good reason to believe that a person whose name is drawn is temporarily absent from the city or is unwell or so engaged as to be unable to attend at the time and place required without great inconvenience, the card must be laid aside without the name thereon being entered on the list drawn and returned to the jury box when the drawing is completed.

When the drawing of the twelve names is completed, the Municipal Judge shall direct the Chief of Police to summon the persons whose names were drawn to appear for jury duty at a prescribed time and place, and the Chief of Police shall forthwith deliver to each of the persons whose name is drawn an appropriate order signed by the Municipal Judge, which shall direct such person to appear as a juror before the Municipal Court at such designated time and place. The Chief of Police shall return immediately to the Municipal Judge a record of the persons to whom the summons for jury duty was served, and if, after a diligent search, the Chief of Police is unable to locate and serve any person with a summons for jury duty, the Municipal Judge shall draw another card from the jury box and issue an appropriate order for jury

duty, and direct to the Chief of Police for service, and this process shall be continued until twelve persons have been selected from the jury box and service on them has been made requiring them to appear for jury duty in the cause then pending before the Municipal Court. Each trial juror shall be paid a fee of \$10.00.

Section 6. Selection of Trial Jury. At the time of trial, the trial jury shall be selected from the twelve members of the jury panel, and each party may take challenges for cause in accordance with Chapter 17 of Oregon Revised Statutes. Each party is entitled to three (3) peremptory challenges as to any of the six jurors and no more.

Section 7. Excuse of persons from service as a juror. The court shall excuse any person from services as a juror if such person is entitled to and requests exemption for any reason specified in ORS 10.040. The court may also excuse any person from service as a juror either by removal of his name from the jury panel or by excuse for a particular time for reason of illness, disability or undue hardship. No person shall be required to serve as a trial juror at more than three trials during his term of service. No challenge shall be made or allowed to the panel or to the preliminary jury list, and substantial compliance with the requirements of the ordinance shall be sufficient. If at any time the court deems the number of qualified and unexcused jurors on the panel to be insufficient the court may cause additional names to be chosen in the aforesaid manner from the preliminary jury list and added to the panel.

Section 8. Inadequate number of people in jury panel. If, at the time of any jury trial, the jury panel present for said trial becomes exhausted, or whenever, in the opinion of the Municipal Judge the panel is likely to be exhausted due to non-appearance of prospective jurors or challenges by each party, the court may order

the Chief of Police of the City of Canby to summon forthwith from the body of the City persons whose names are upon the tax roll or registration books and who have the qualifications of jurors to serve in the court.

Section 9. Trial Procedure. Trials shall be conducted as trials in district courts and rules of evidence shall be the same as in state courts, and shall include the applicable statutes of the State of Oregon regarding the introduction or admission of evidence.

Section 10. Jury Verdict. The six jurors summoned to try any cause must unanimously concur to render a verdict.

Section 11. Failure of Jurors to Attend Municipal Court. If a person duly summoned to attend Canby municipal court as a juror fails to attend as required or to give a valid excuse therefor, he may be fined by the Municipal Judge in a sum not exceeding \$25.00.

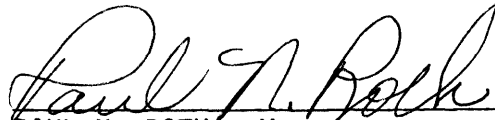
Section 12. Privilege, Power, and Duties of Municipal Court. The municipal court shall possess and exercise within the City of Canby all the privileges, powers, duties and jurisdiction, civil and criminal, of a justice of the peace of the County of Clackamas, and be subject to all the general laws prescribing the duties of such, and perform such other duties as may be required by the State of Oregon, the City Council, or this Ordinance.

Section 13. Repeal of Ordinance No. 476. Ordinance No. 476 of the City of Canby is hereby repealed.

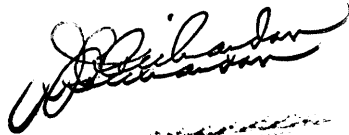
Section 14. Effective Date. It being deemed by the Canby City Council that an emergency exists, this Ordinance shall take effect immediately upon its

final passage by the Council.

Passed on first reading at a regular meeting of the Canby City Council held on the 18<sup>TH</sup> day of FEBRUARY, 1975; ordered posted for a period of two (2) full calendar weeks as required by the Canby City Charter; and to come up for final reading and action of the Canby City Council at a regular meeting thereof to be held on March , 17<sup>th</sup> , 1975, at the hour of 8:00 P.M. at the Canby City Hall.

  
\_\_\_\_\_  
PAUL N. ROTH - Mayor

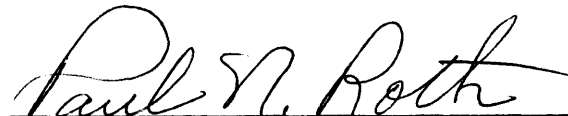
ATTEST:



\_\_\_\_\_  
J. R. RICHARDSON - City Recorder

Passed on final reading at a regular meeting of the Canby City Council held on the 17<sup>th</sup> day of March , 1975 by the following vote:

Yeas 4 , Nays 1 .

  
\_\_\_\_\_  
PAUL N. ROTH - Mayor

ATTEST:

 Pro-Ten  
\_\_\_\_\_  
J. R. RICHARDSON - City Recorder