

ORDINANCE # 9
ESTABLISHING CORPORATION COURT

REAFFIRMED BY # 36
AMENDED BY # 78-84

ORDINANCE NO. 9

AN ORDINANCE OF THE CITY OF DANBURY, TEXAS, ESTABLISHING A CORPORATION COURT FOR THE CITY OF DANBURY AND PROVIDING FOR THE OFFICERS THEREOF; PROVIDING FOR THE INSTITUTION OF PROCEEDINGS IN THE COURT BY COMPLAINT, THE CHARGING OF THE JURY BY A RECORDER AND AN ATTESTATION OF THE COMPLAINT BY CERTAIN OFFICERS NAMED; PROVIDING FOR A SEAL OF THE COURT AND THE USE THEREOF; PROVIDING FOR THE ISSUANCE OF PROCESS AND NAMING THE OFFICERS TO WHOM THE SAME SHOULD BE DIRECTED; PROVIDING A MAXIMUM FINE OF \$200.00 FOR ALL CASES IN THE CORPORATION COURT; THE FINE TO BE PAID INTO THE CITY TREASURY; PROVIDING THAT THE RECORDER BE PAID \$ 4.00 FOR EACH CRIMINAL CASE TRIED AND DISPOSED OF BEFORE HIM, THE SAME TO BE TAXED AS COSTS; THAT SUCH COMPENSATION SHALL BE PAID TO THE RECORDER MONTHLY ON WRITTEN REPORT TO THE CITY COUNCIL; THAT THE RECORDER SHALL HAVE POWER TO REMIT FINE AND COSTS OR EITHER OF THEM; THAT THE CITY ATTORNEY RECEIVE \$ 5.00 FOR A CONVICTION IN EVERY CASE TRIED ON A PLEA OF NOT GUILTY; PROVIDING THAT UPON FAILURE TO PAY FINE AND COSTS THAT THE DEFENDANT BE COMMITTED TO THE CUSTODY OF A POLICEMAN OR THE CITY MARSHALL AND THAT PRISONERS SERVING OUT HIS FINE BE CREDITED FOR TIME SERVED AS IN A JUSTICE COURT CASE; PROVIDING THAT THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF TEXAS REGULATING THE AMOUNT AND COLLECTION OF JURY AND WITNESS FEES AND THE ENFORCEMENT OF THE ATTENDANCE OF WITNESSES RELATING TO JUSTICE COURT GOVERN SUCH PROCEDURE IN THE CORPORATION COURT; PROVIDING THAT THE RULES OF PROCEDURE AND EVIDENCE AND COSTS AND FEES CHARGEABLE IN A TRIAL IN THE CORPORATION COURT CONFORM TO THE RULES AND PROVISIONS FOR JUSTICE COURT CASES; PROVIDING THAT THE FEES OF RECORDER AND CITY ATTORNEY BE PAID FROM THE TREASURY; PROVIDING THAT APPEAL BE TO THE COUNTY COURT IN PROPER CASES AND STATING THE APPELLATE PROCEDURE TO BE FOLLOWED; PROVIDING FOR COLLECTION OF FINES AND COSTS ON APPEAL AND PAYMENT OF THE SAME FOR THE CORPORATION COURT INTO MUNICIPAL TREASURY; PROVIDING FOR AUTHORITY OF RECORDER TO PUNISH FOR CONTEMPT AND ALSO AUTHORITY TO TAKE RECOGNIZANCE AND BAIL AND FORFEIT THE SAME AS IN THE COUNTY COURT; PROVIDING FOR A DOCKET FOR THE RECORDER AND THE ENTRIES TO BE MADE THEREON IN A TRIAL; PROVIDING FOR AUTHORITY TO ISSUE WARRANTS WHEN OFFENSE IS COMMITTED IN THE PRESENCE OF THE RECORDER; PROVIDING FOR THE EXECUTION AND FILING OF A COMPLAINT; PROVIDING FOR THE ISSUANCE OF WARRANTS OF ARREST BY RECORDER AND STATING THE REQUISITES OF SUCH WARRANTS; PROVIDING THE CONTENT OF A COMPLAINT IN THE CORPORATION COURT; PROVIDING THAT RECORDER MAY AUTHORIZE A PERSON OTHER THAN A PEACE OFFICER TO EXECUTE A WARRANT

AND DEFINE THE AUTHORITY OF SUCH PERSONS; PROVIDING FOR A SPEEDY TRIAL OF DEFENDANT WITH A POSTPONEMENT OF NOT MORE THAN 5 DAYS AND AUTHORIZING BAIL BY THE RECORDER; PROVIDING FOR WAIVER OF JURY TRIAL; PROVIDING THE SUMMONING OF A JURY IF NOT WAIVED AND THE ATTENDANCE OF THE JURY FIXING A FINE FOR FAILURE OF JURORS TO APPEAR; PROVIDING FOR PRESENTATION OF THE COMPLAINT TO THE DEFENDANT; PROVIDING FOR TRIAL WITHOUT TECHNICAL RESTRICTIONS; PROVIDING FOR CHALLENGES TO THE JURY BY THE DEFENDANT AND THE TOWN; PROVIDING FOR THE SUMMONING OF ADDITIONAL JURORS IF A SUFFICIENT NUMBER IS NOT IN ATTENDANCE; PROVIDING FOR AN OATH BY RECORDER TO THE JURY; PROVIDING FOR THE PLEA BE OF A FORM OF ACQUITTAL OR CONVICTION; PROVIDING FOR ORAL PLEADING AND THE NOTATION OF DEFENDANTS PLEA BY RECORDER; PROVIDING FOR PROOF OF OFFENSE ON PLEA OF NOT GUILTY AND ASSESSMENT OF PUNISHMENT; PROVIDING THAT THE RECORDER ENTER A PLEA ON REFUSAL BY DEFENDANT; PROVIDING FOR RECORDER TO EXAMINE WITNESS IN THE ABSENCE OF COUNSEL FOR THE CITY; PROVIDING FOR THE APPEARANCE AND ARGUMENT BY COUNSEL; PROVIDING FOR RULES OF EVIDENCE CONFORMING TO DISTRICT COURT RULES; PROVIDING FOR THE CONDUCT OF JURY AFTER CHARGE; PROVIDING FOR DISCHARGE OF JURY IF VERDICT NOT REACHED AND THE SELECTION OF ANOTHER JURY TO TRY THE CASE; PROVIDING FOR BAIL FOR DEFENDANT DURING ADJOURNMENT; PROVIDING FOR JURY VERDICT AND JUDGMENT OF RECORDER; PROVIDING FOR PLACING IN JAIL BY OFFICER OF DEFENDANT IN CUSTODY; PROVIDING FOR NEW TRIAL BY RECORDER; PROVIDING FOR APPLICATION FOR NEW TRIAL WITHOUT STAY OF EXECUTION; PROVIDING FOR ONLY ONE NEW TRIAL WHICH SHALL BE HELD BY THE RECORDER AS SOON AS PRACTICABLE; PROVIDING THAT THE TOWN BE ENTITLED TO NO NEW TRIAL; PROVIDING THAT UPON FILING OF APPEAL BOND ALL PROCEEDINGS IN THE CORPORATION COURT CEASE; PROVIDING FOR THE RENDITION OF JUDGMENT BY THE RECORDER AND ENTRY ON THE DOCKET; PROVIDING FOR THE CONTENTS OF THE JUDGMENT IN CASE OF CONVICTION AND THE REMANDING OF THE DEFENDANT TO THE CUSTODY OF THE CITY MARSHALL OR POLICEMAN AND THE ISSUANCE OF EXECUTION TO COLLECT THE FINE AND COSTS; PROVIDING FOR THE ISSUANCE OF A CAPIAS IN CERTAIN CASES FOR THE ARREST OF THE DEFENDANT; PROVIDING FOR THE ISSUANCE OF EXECUTION FOR THE COLLECTION OF FINES AND COSTS; PROVIDING FOR THE DISCHARGE BY DEFENDANT ON HABEAS CORPUS UPON SHOWING OF CERTAIN SPECIAL GROUNDS SET OUT; PROVIDING THAT THE UNCONSTITUTIONALITY OF ANY PART OF THE ORDINANCE SHALL NOT AFFECT THE CONSTITUTIONALITY OF THE REMAINING PART AND PROVIDING THAT THE ORDINANCE BECOME EFFECTIVE UPON ITS PASSAGE AND APPROVAL.

BE IT ORDAINED by the City Council of the City of Danbury, Texas,

duly assembled:

SECTION I.

(1) That there be established and created in the City of Danbury, Texas, a Corporation Court.

(2) The Recorder of the Corporation Court shall be appointed by the Mayor of the City of Danbury with the concurrence of a majority of the City Council of the City of Danbury. The Recorder first appointed shall hold his term of office corresponding to the unexpired term of the Mayor of the City of Danbury, and every two (2) years thereafter a Recorder of said Court shall be appointed for a term of two (2) years. The Recorder of said Court shall hold his office for the term appointed and until his successor has been appointed and qualified.

(3) The City Secretary of the City of Danbury shall be ex-officio Clerk of the "Corporation Court" and shall hold such office during his term as City Secretary. The Clerk shall keep minutes of the proceedings of the said Court, issue all process and generally perform all the duties of a Clerk of a Court as prescribed by law for a County Clerk insofar as the same may be applicable. The City Secretary may appoint a deputy to be known as Deputy Clerk of Corporation Court, with the same powers as are herein given the City Secretary. The salary of the Deputy Clerk shall be fixed by the City Council.

(4) The City Attorney, duly appointed by ordinance, shall conduct all prosecutions in the Corporation Court, the City Attorney shall have the authority to name a deputy to conduct the prosecution in the "Corporation Court" if he sees fit.

SECTION II.

PROCEDURE IN THE CORPORATION COURT

(1) Proceeding in the Court shall be commenced by complaint, which shall begin "In the name and by the authority of the State of Texas" and shall conclude "Against the peace and the dignity of the State", and if the offense is only covered by an ordinance, it may also include "Contrary to the ordinances of the City of Danbury made and provided." The Recorder need not charge the

jury except upon charges requested in writing by the Defendant, or his attorney, and he may give or refuse such charges. Complaints before such court may be sworn to before any officer authorized to administer oaths or before the Recorder, Clerk of the City Court, City Secretary, City Attorney, or his deputy, each of whom, for that purpose, shall have the power to administer oaths.

(2) The said Corporation Court shall have a seal with a star of five points in the center and the words "Corporation Court of the City of Danbury, Texas", the impress of which shall be attached to all papers issued out of said Court except subpoenas, and shall be used to authenticate the official acts of the Clerk and the Recorder.

(3) All process issuing out of the Corporation Court shall be served by a Policeman or the City Marshall of the City of Danbury, under the same rules as are provided by law for the service of Sheriffs and Constables of process issuing out of the Justice Court, so far as applicable. Each Defendant shall be entitled to at least one day's notice of any complaint against him, if such time be demanded.

(4) In all cases in the Corporation Court in the City of Danbury arising from the violation of the ordinances of the said City of Danbury, or in cases presented in the Corporation Court in which the said court has concurrent jurisdiction with the Justice Court, the maximum fine shall be the sum of One Hundred (~~\$100.00~~) ^(200.00) Dollars. All such fines shall be paid into the Treasury of the City of Danbury, for the use and benefit of the said city.

(5) The Recorder shall be allowed a fee of \$ 4.00 for each criminal action tried and finally disposed of before him, which shall be taxed as costs in the case, unless otherwise provided in the ordinances of the City of Danbury. Payment of the Recorder's compensation shall be made by city warrant on a written report of the Recorder to the City Council showing each case tried or disposed of, with the number, the name of the Defendant and the offense charged.

(6) The City Attorney shall be allowed a fee of \$ 5.00 for a conviction in every case wherein the Defendant enters a plea of not guilty, which shall be taxed as costs in the case.

(7) All fines and costs assessed against Defendant shall be immediately paid to the Clerk of the Court and upon failure to do so Defendant shall be committed into the custody of the City Marshall and imprisoned in the City Jail pending the payment of the fine or the satisfaction thereof by serving his fine out in jail will be given the same credit for time served on the fine as provided for in cases in the Justice Courts.

(8) The provisions of the Code of Criminal Procedure of the State of Texas regulating the amount and collection of jury and witness fees and enforcing the attendance of witnesses in criminal cases in trial in the Justice Courts shall govern such procedure in the Corporation Court.

(9) The rules of procedure and evidence in the trial of a case in Corporation Court and costs and fees chargeable as costs shall follow and conform to the rules and provisions set out in the Code of Criminal Procedure of the State of Texas for Justice Courts.

(10) The fees allowed the Recorder and City Attorney shall be taxed as costs in the case as herein provided, but shall be paid to the officers of the Treasury of the City of Danbury. The Recorder shall charge and tax as costs fees provided by law for the Justice of the Peace and officers of the Court, Criminal cases in Justice Court, and all such fees shall be paid by him to the City Secretary at the time of his monthly report, such fees shall be and remain the property of the City of Danbury.

(11) Appeals from a Corporation Court shall be heard by the County Court except in cases where the County Court has no jurisdiction, in which cases such appeals shall be heard by the proper court. In such appeals the trial shall be de novo. Said appeals shall be governed by the rules of practice and procedure for appeals from Justice Courts in the County Court, as far as possible.

(12) The fine imposed on appeal and the costs imposed on appeal and in the Corporation Court shall be collected of the Defendant, and such fine and the cost of the Corporation Court when collected shall be paid into the municipal treasury.

(13) The Recorder may punish for contempt to the same extent and under the same circumstances as the County Judge may punish for contempt of the County Court. He shall have the power to take recognizances and bail bonds under such rules as govern such taking and forfeiture in the County Court.

(14) Each Recorder shall keep a docket in which he shall enter the proceedings in each trial had before him, which docket shall show:

1. The style of the action.
2. The nature of the offense charged.
3. The date the warrant was issued and the return made thereon.
4. The time when the trial was had and, if a trial, whether it was by a jury or by himself.
5. The verdict of the Jury, if any.
6. The judgment of the Court.
7. Motion for new trial, if any, and the decision thereon.
8. If an appeal was taken.
9. The time when, and the manner in which, judgment was enforced.

(15) Whenever a criminal offense which a Recorder has jurisdiction to try shall be committed within the view of such Recorder, he may issue his warrant for the arrest of the offender.

(16) Upon complaint being made before any Recorder, or any other officer authorized by law to administer oaths, that an offense has been committed in the territorial limits of the City of Danbury, the Recorder, or other officer, shall reduce the same to writing and the same to be signed and sworn to by the complainant. It shall be duly attested by the officer before whom it was made; and when made before such Recorder, or when returned to him made before any other officer, the same shall be filed by him.

(17) Such complaint shall state:

- a. The name of the accused, if known, and, if unknown, shall describe him as accurately as practicable.
- b. The offense with which he is charged, in plain and intelligible words.

- c. That the offense was committed in the County in which the complaint is made.
- d. It must show, from the date of the offense stated therein, that the offense is not barred by limitation.

(18) When the requirements of the preceding article have been complied with, the Recorder shall issue a warrant for the arrest of the accused and deliver the same to the proper officer to be executed.

(19) Said warrant shall be deemed sufficient if it contains the following requisites:

- a. It shall issue in the name of the City of Danbury.
- b. It shall be directed to the City Marshall or Policeman of the City of Danbury.
- c. It shall command that the body of the accused be taken, and brought before the authority issuing the warrant, at a time and place therein named.
- d. It must state the name of the person whose arrest is ordered, if it is known; and, if not known, he must be described as in the complaint.
- e. It must state that the person is accused of some offense against the laws of the State, naming the offense.
- f. It must be signed by the Recorder, and his office named in the body of the warrant, or in connection with his signature.

(20) A Recorder may, when deems it necessary, authorize any person other than a peace officer to execute a warrant of arrest by naming such person specially in the warrant. In such case, such person shall have the same powers, and shall be subject to the same rules that govern peace officers in like cases.

(21) When the defendant is brought before the Recorder, he shall proceed to try the cause without delay, unless good ground be shown for a postponement thereof, in which case he may postpone the trial to any time not longer than five (5) days, and may, if he deem proper, require the defendant to give bail for his appearance; and if, when required, he fails to give bail, he shall be kept in custody until final determination for the cause.

(22) The accused may waive a trial by jury; and, in such case, the Recorder shall hear and determine the case without a jury.

(23) If the accused does not waive a trial by jury, the Recorder shall issue a writ commanding the proper officer to summon forthwith a jury of six persons qualified to serve as jurors. Said jurors when so summoned shall

remain in attendance as jurors in all cases that may come up for hearing until discharged by the Recorder. Any person so summoned who fails to attend may be fined not exceeding Twenty (\$20.00) Dollars for contempt.

(24) If the warrant issued upon a complaint made to the Recorder, the complaint shall be read to the defendant. If issued by the Recorder with out previous complaint, he shall state to the defendant the accusation against him.

(25) A defendant shall not be discharged by reason of any informality in the complaint or warrant. The proceeding before the Recorder shall be conducted without reference to technical rules.

(26) In all jury trials in the Corporation Court the City and each defendant in the case shall be entitled to three preemptory challenges, and also to any number of challenges for cause, which cause shall be judged of by the Recorder.

(27) If, from challenges or any other cause, a sufficient number of jurors are not in attendance, the Recorder shall order the proper officer to summon a sufficient number of qualified persons to form a jury.

(28) The Recorder shall administer the following oath to the jury:
"Each of you do solemnly swear that you will well and truly try the cause about to be submitted to you and a true verdict render therein, according to the law and the evidence, so help you God."

(29) After the jury is impaneled, the defendant may plead guilty or not guilty, or the special plea named in the succeeding article.

(30) The only special plea allowed is that of former acquittal or conviction for the same offense.

(31) All pleading in Corporation Court is oral. The Recorder shall not upon his docket enter the plea offered.

(32) Proof as to the offense shall be heard upon a plea of guilty and the punishment assessed by the Recorder or jury.

(33) The Recorder shall enter a plea of not guilty if the defendant refuses to plead.

(34) The Recorder shall examine the witnesses if the City is not represented by Counsel.

(35) The defendant has a right to appear by counsel as in all other cases. The City's counsel may open and conclude the argument.

(36) The rules of evidence which govern the trials of criminal actions in the district court shall apply to such actions in Corporation Court.

(37) The jury shall retire in charge of an officer when the cause is submitted to them, and be kept together until they agree to a verdict or are discharged.

(38) A jury shall be discharged if they fail to agree to a verdict after being kept together a reasonable time. If there be time left on the same day, another jury may be impaneled to try the cause, or the Recorder may adjourn for not more than two days and again impanel a jury to try such cause.

(39) In the case of adjournment, the Recorder shall require the defendant to give bail for his appearance. If he fails to give bail he may be held in custody.

(40) When the jury have agreed upon a verdict, they shall bring the same into court; and the Recorder shall see that it is in proper form and shall enter it upon his docket and render the proper judgment thereon.

(41) Whenever, by the provisions of this title, the City Marshall or Policeman of the City of Danbury is authorized to retain a defendant in custody, he may place him in jail or any other place where he can be safely kept.

(42) A Recorder may, for good cause shown, grant the defendant a new trial, whenever such Recorder shall consider that justice has not been done the defendant in the trial of such cause.

(43) An application for a new trial must be made within one day after the rendition of judgment, and not afterward; and the execution of the judgment shall not be stayed until a new trial granted.

(44) Not more than one new trial shall be granted the defendant in the same case. When a new trial has been granted, the Recorder shall proceed,

as soon as practible, to try the case again.

(45) In no case shall the City be entitled to a new trial.

(46) When a defendant files the appeal bond required by law with the Recorder, all further proceeding in the case in the Corporation Court shall cease.

(47) All judgments and final orders of the Recorder shall be rendered in open court and entered upon his docket.

(48) The judgment, in case of conviction in a criminal action before a Recorder, shall be that the City of Danbury recover of the defendant the fine and costs, and that the defendant be remanded to and remain in custody of the City Marshall or Policeman of the City of Danbury until the fine and costs are paid; and that execution issue to collect the sum.

(49) If the defendant be not in custody when judgment is rendered, or if he escapes from custody thereafter, a capias shall issue for his arrest and confinement in jail until he is legally discharged.

(50) In each case of conviction before a Recorder from which no appeal is taken, an execution shall issue for the collection of other fine and costs, which shall be enforced and returned in the manner prescribed by law in civil actions before justices of the peace.

(51) A defendant placed in jail on account of failure to pay the fine and costs can be discharged in habeas corpus by showing:

- a. That he is too poor to pay the fine and costs and
- b. That he has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of three dollars for each day.
- c. But the defendant shall, in no case under this article, be discharged until he has been imprisoned at least five days; and a Recorder may discharge the defendant upon his showing the same cause, by application to such Recorder; and when such application is granted, the Recorder shall note same on his docket.

(52) In any case before him, the Recorder shall have the power:

- a. To remit the fine and costs assessed;
- b. To remit the costs only; and
- c. To remit the fine only.

SECTION III.

If any part or parts of this ordinance shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this ordinance. It is hereby declared that the remaining parts of this ordinance would have been ordained and passed had it been known that such part or parts thereof would be declared unconstitutional.

SECTION IV.

This ordinance shall become effective immediately upon its passage and approval.

PASSED this 26 day of November, A. D. 1962.

APPROVED this the 26 day of November, A. D. 1962.

E. J. J. J.
Mayor, City of Danbury, Texas

ATTEST:

Mrs. Eugene Wallam
City Secretary

Danbury, Texas
Nov. 26, 1962.

TO THE CITY COUNCIL:

I HEREBY REQUEST THAT THE RULE REQUIRING three (3) separate readings will be suspended and that the above Ordinance will be passed and will become effective immediately upon its passage and approval.

E. J. J. J.
Mayor, City of Danbury, Texas

THE FOREGOING ORDINANCE having been read in full at the regular monthly meeting of the City Council of the City of Danbury, Texas, on the 26 day of November, A. D. 1962, Councilman B. E. J. J. moved its passage, Councilman H. W. J. J. seconded and the motion carried the affirmative vote of all present.