

ORDINANCE
CITY OF NEW ORLEANS

CITY HALL: June 18, 2020

CALENDAR NO. 33,020

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER WILLIAMS

AN ORDINANCE to amend and reordain Sections 54-28 and 54-29 of the Code of the City of New Orleans, relative to summons in lieu of arrest and citation for municipal ordinance instead of state law violation, to provide that officers shall issue a summons in lieu of arrest for misdemeanor violations except under certain enumerated circumstances; to limit officer discretion to arrest an individual solely for a misdemeanor violation; to provide that summons or arrest shall be based on the equivalent municipal violation if a misdemeanor offense is punishable under municipal as well as state law; and otherwise to provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY
ORDAINS, That Section 54-28 of the Code of the City of New Orleans is hereby amended and reordained to read as follows:

“Section 54-28. – Summons by officer instead of arrest and booking.

(1) An officer shall issue a written summons and may not make a custodial arrest when citing a person solely for a state or municipal misdemeanor violation, except when one of the following circumstances exists:

(a) The person does not possess identification issued by any municipal, state, territorial, federal, or other governmental authority within the United States; or

(b) The person makes a statement that indicates an intent to disregard the summons or refuses to sign the summons; or

(c) The person acts in a violent or destructive manner or makes a statement indicating that he or she intends to imminently inflict injury to self or another or damage to property; or

(d) The person is a habitual offender, defined as any individual with a criminal history of two or more felony convictions; or five or more felony, misdemeanor, or municipal arrests for any offense.

(2) When an officer determines that one of the exceptions enumerated in subsection (1) applies, the officer may use his or her discretion to issue a summons instead of making a custodial arrest for a violation.

(3) Subsection (1) does not apply when an officer cites a person for a domestic violence violation.

(4) When an officer effectuates a custodial arrest for a state or municipal misdemeanor violation, the officer shall appropriately fill out all information on the reverse side of the affidavit at the time of arrest in a form to be promulgated by the New Orleans Police Department that describes with specificity the circumstances falling within subsection (1).

(5) The New Orleans Police Department shall continue to prepare quarterly reports stating the number of custodial arrests made solely for state or municipal misdemeanor violations, the reasons for those arrests, and the number of summonses issued for such violations.

(6) A defendant has seven days from the time of the issuance of a summons under this section to appear in court to show cause for the failure to appear as defined in Section 54-1 of this Code. Failure to appear within seven days will create the rebuttable presumption that the defendant is guilty of this article. Whoever commits the crime of failure to appear shall be fined not more than \$500.00, or imprisoned for not more than six months, or both.”

SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Section 54-29 of the Code of the City of New Orleans (previously Reserved) is hereby amended and reordained to read as follows:

“Section 54-29. – Citation for municipal ordinance instead of state law violation.

(1) Any member of the New Orleans Police Department citing a person for a misdemeanor offense punishable under both Chapter 54 of the City Code and Titles 14 or 40 of Louisiana Revised Statutes shall arrest or issue a summons for the equivalent municipal offense rather

8 than the equivalent state offense as further provided in subsection (2). The decision of
9 whether to issue a summons or arrest shall be made in accordance with the provisions of
10 Section 54-28.

11 (2) The equivalent municipal offenses shall be used instead of the state offenses as follows:

12 (a) Section 54-96 "Battery" instead of La. R.S. 14:35 "Simple battery"

13 (b) Section 54-97 "Assault" instead of La. R.S. 14:38 "Simple assault"

14 (c) Section 54-98 "Negligent injuring" instead of La. R.S. 14:39 "Negligent injuring"

15 (d) Section 54-151 "Criminal damage to property" instead of La. R.S. 14:56 "Simple
16 criminal damage to property"

17 (e) Section 54-153 "Criminal trespass" instead of La. R.S. 14:63 "Criminal trespass"

18 (f) Section 54-186 "Theft" instead of La. R.S. 14:67 "Theft"

19 (g) Section 54-187 "Unauthorized use of moveables" instead of La. R.S. 14:68
20 "Unauthorized use of a moveable"

21 (h) Section 54-188 "Illegal possession of stolen things" instead of La. R.S. 14:69
22 "Illegal possession of stolen things"

23 (i) Section 54-251 "Prostitution" instead of La. R.S. 14:82 "Prostitution"

24 (j) Section 54-252 "Soliciting for prostitution" instead of La. R.S. 14:83 "Soliciting
25 for prostitutes"

26 (k) Section 54-278 "Telephone communications; improper language" instead of La.
27 R.S. 14:285 "Unlawful communications; telephones and telecommunications
28 devices; improper language; harassment"

29 (l) Section 54-341 "Illegal carrying of weapons" instead of La. R.S. 14:95(A)(1)
30 "Illegal carrying of weapons"

31 (m) Section 54-377 "Desecration of graves" instead of La. R.S. 14:101 "Desecration of
32 graves"

33 (n) Section 54-401 "Obstructing public passages" instead of La. R.S. 14:100.1
34 "Obstructing public passages"

35 (o) Section 54-403 "Disturbing the peace" instead of La. R.S. 14:103 "Disturbing the
36 peace"

37 (p) Section 54-441 "Resisting an officer" instead of La. R.S. 14:108 "Resisting an
38 officer"

39 (q) Section 54-449 "Flight from an officer" instead of La. R.S. 14:108.1 "Flight from
40 an officer"
41 (r) Section 54-505 "Simple possession of marijuana" instead of La. R.S. 40:966(C)(2)
42 "Possession of marijuana".

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:

DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ **AT** _____

CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

RECUSED: