

ORDINANCE

CITY OF NEW ORLEANS (INCLUDES AMENDMENTS)

CITY HALL: March 6, 2008

CALENDAR NO. 26,924

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS CARTER, CLARKSON, MIDURA, FIELKOW, HEAD, HEDGE-MORRELL AND WILLARD-LEWIS

AN ORDINANCE to amend Article I of Chapter 54 of the Code of the City of New Orleans to add a new section to permit the issuance of a written summons in place of custodial arrest and reduce the reliance on incarceration for certain municipal offenses; and otherwise to provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS

that Article I of Chapter 54 of the Code of the City of New Orleans be amended and reordained to add Section 54-28 to read as follows:

Chapter 54. CRIMINAL CODE

ARTICLE I. IN GENERAL

* * *

Sec. 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 violation of this Chapter, 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 inflict injury to self or another or damage to property; or

16 d. the person is a habitual offender, defined as any individual with a criminal history of
17 two or more felony convictions or, any individual with five or more felony or municipal
18 arrests for any offense; or

19 e. based on the circumstances, an officer determines that it is absolutely necessary to
20 make an arrest.

21 (2) When an officer determines that one of the factors enumerated in section (1) applies, the
22 officer may use his or her discretion to issue a summons instead of making a custodial arrest for a
23 violation of this Chapter.

24 (3) Section (1) does not apply when an officer cites a person for a violation of article VIII of
25 Chapter 54 of the Code of the City of New Orleans.

26 (4) When an officer effectuates a custodial arrest solely for a violation of the Code of the City of
27 New Orleans, the officer shall appropriately fill out all information on the reverse side of the affidavit at
28 the time of arrest in a form to be promulgated by the New Orleans Police Department that describes with
29 specificity the circumstances falling within section (1).

30 (5) The New Orleans Police Department shall continue to prepare quarterly reports stating the
31 number of custodial arrests made solely for violations of the Code of the City of New Orleans, the reasons
32 for those arrests, and the number of summonses issued for violations of the Code of the City of New
33 Orleans.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:
DISAPPROVED: _____

MAYOR

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

CLERK OF COURT

ROLL CALL VOTE

YEAS:

NAYS:

ABSENT:

RECUSED:

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