

ORDINANCE NO. 21-023

OCR PD - GUIDELINES FOR RELEASE IN LIEU OF JAIL TIME

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF OWENS CROSS ROADS that the Owens Cross Roads Police Department law enforcement officers are authorized, in lieu of placing persons under custodial arrest, to issue a summons and complaint to any person charged with violating any municipal ordinance or any misdemeanor or violation within the corporate limits of the Town of Owens Cross Roads.

- A. This ordinance may not authorize a law enforcement officer to issue a summons and complaint in lieu or arrest under any of the following circumstances:
- a. The person is charged with committing a crime involving violence, threat of violence, or domestic violence, as defined under Article 7 (commencing with Section 13a-6-130) of Chapter 6, Title 13A.
 - b. The person is charged with the use or possession of alcohol or a controlled substance, and in the opinion of the law enforcement officer, is a risk to public safety.
 - c. A victim of the crime is a minor.
 - d. The person is charged with a violation of Section 32-5A-191.
 - e. The person is charged with a crime that would require restitution to the victim.
 - f. The person is charged with identity theft, as provided under Section 13A-8-192.
 - g. The person is charged with the crime of theft of property in the fourth degree, as defined under Section 13A-8-5.
 - h. The person is charged with fleeing or attempting to elude a law enforcement officer under Section 13A-10-52.
 - i. The person is charged with a crime involving cruelty to or abuse of an animal, including a violation of Section 13A-11-241.
 - j. The person is charged with a violation of carrying a pistol without a permit, as provided under Section 13A-11-73.
 - k. The person is charged with a crime that is sexual in nature.
- B. The summons and complaint shall be on a form approved by the governing body of the municipality and shall contain the name of the court; the name of the defendant; a description of the offense, including the municipal ordinance number; the date and time of the offense; the place of the offense; signature of the officer issuing the citation; the scheduled court date and time; an explanation to the person cited of the ways in which he or

she may settle his or her case; and a signature block for the magistrate to sign upon the officer's oath and affirmation given prior to trial.

- C. Whenever any person is arrested for a violation of an offense the arresting officer shall take the name and address of the person and any other identifying information and issue a summons and complaint to the person charged. The officer shall release the person from custody upon his or her written promise to appear in court at the designated time and place as evidenced by his or her signature on the summons and complaint, without any condition relating to the deposit of security.
- D. If any person refuses to give a written recognizance to appear by placing his or her signature on the summons and complaint, the officer shall take that person into custody and bring him or her before any officer or official who is authorized to approve bond.
- E. Upon implementation of the summons and complaint procedure, the governing body of the municipality adopts Rule 20: Alabama Rules of Judicial Administration implemented by the Supreme Court of Alabama for the fines of first, second, and subsequent offenders of the alleged violation of offenses subject to the summons and complaint procedure. The schedule of fines shall be posted in a place conspicuous to the public within the court clerk's office and the police department.
- F. As stated:
 - 1) When a person is charged with an offense subject to the summons and complaint procedure, he or she may elect to appear before the municipal court magistrate within the time specified in the summons and complaint, and upon entering a plea of guilty, pay the fine and court costs. A plea of guilty shall only be accepted by the magistrate after the defendant has executed a notice and waiver of rights form.
 - 2) In the alternative, the defendant shall have the option of depositing the required bail, and upon a plea of not guilty, shall be entitled to a trial as authorized by law.
- G. The court clerk or magistrate shall receive and issue receipts for cash bail from persons who wish to be heard in court; enter the time of their appearance on the court docket; and notify the arresting officer and witnesses, if any, to be present.
- H. If the defendant fails to appear as specified in the summons and complaint, the judge or magistrate having jurisdiction of the offense may issue a warrant for his or her arrest commanding that he or she be brought before the court to answer the charge contained on

the summons and complaint. In addition, any person who willfully violates his or her written promise or bond to appear, given in accordance with this section, shall be guilty of the separate offense of failing to appear, a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.

- I. All fines and forfeitures collected upon a conviction or upon the forfeiture of bail of any person charged with a violation of the ordinances, shall be remitted to the general fund of the municipality or as otherwise provided by law; provided, however, fines, forfeitures, and court costs assessed and collected in district court shall be distributed as now provided by law.

ADOPTED THIS 22 DAY OF JUNE 2021.



Tony K. Craig, Mayor



ATTEST: Christie D. Eason, Municipal Clerk



Town of Owens Cross Roads, Alabama, certificate of publication.

This is to certify that Ordinance No. 21-023, Town of Owens Cross Roads, Alabama, was published by posting on the town website, Facebook page, and on at least three (3) bulletin boards in the Town.