City of Cincinnati

CMZ

BWb

An Ordinance No. ___490___ - 2021

AMENDING Article XVIII, Section 11, "Criminal Offenses in Time of Public Danger or Emergency" of the Administrative Code of the City of Cincinnati for the purpose of removing the obsolete "confinement in the workhouse" penalty currently in place for a violation of orders issued during a state of emergency.

WHEREAS, Article XVIII of the Administrative Code authorizes the actions necessary for the City to address times of public danger or emergency, including the declaration that a public danger or emergency exists; and

WHEREAS, Article XVIII, Section 11 establishes criminal offenses that can be charged as a result of violating lawful orders during the time of public danger or emergency; and

WHEREAS, the portion of existing penalty provision in Article XVIII, Section 11 that provides for confinement "in the workhouse" is outdated and effectively obsolete; and

WHEREAS, the lack of enforceable penalties in Article XVIII, Section 11 itself requires the City to utilize other criminal penalties for the enforcement of emergency orders; and

WHEREAS, given the exigent circumstances that arise during a public danger or emergency, law enforcement officers should seek to educate and warn individuals prior to initiating criminal charges and, whenever practical and where there is no immediate threat to themselves or others or to the public safety, should issue citations rather than engage in physical arrests of individuals; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio, with three-fourths of its members concurring:

Section 1. That Article XVIII, Section 11 of the Administrative Code, "Criminal

Offenses in Time of Public Danger or Emergency," is hereby amended as follows:

Sec. 11. - Criminal Offenses in Time of Public Danger or Emergency.
No person, in time of public danger or emergency, shall knowingly fail to obey any lawful order of the city manager, the mayor, or the vice-mayor issued under the authority of this article.

No person, in time of public danger or emergency, shall knowingly fail to obey the lawful order of any police officer, militiaman, fireman, member of the National Guard or other authorized person acting under orders or authority issued under the provisions of this article.

No person, in time of public danger or emergency, shall knowingly interfere with any person lawfully acting under authority granted by this article or under any lawful order issued under the provisions of this article.

No person shall knowingly in any way interfere with any police officer, militiaman, fireman, member of the National Guard or any other authorized person who in time of public danger or emergency is engaged in the protection and preservation of life, person, property, or the public peace.

Whoever violates any provision of this section <u>is guilty of failure to obey a lawful order, a misdemeanor of the fourth degree as defined in the Cincinnati Municipal Code, Title IX, Chapter 902, Section 902-5</u>~~shall be fined not more than $500 or confined in the workhouse not more than six months, or both~~.
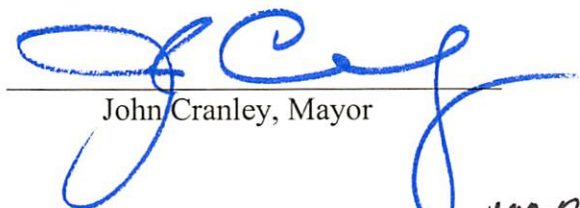
Nothing in this section shall be interpreted as preventing prosecution of a person under any other ordinance of the city of Cincinnati or law of the state of Ohio.
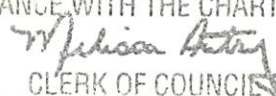
Section 2. That Section 11 of Article XVIII of the Administrative Code, "Criminal Offenses in Time of Public Danger or Emergency," is hereby repealed.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to remove an outdated and functionally obsolete penalty from the City's Administrative Code.

Passed: ___December 15___, 2021

Attest: _____
                    Clerk

_____
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 490-2021 WAS PUBLISHED IN THE CITY BULLETIN IN ACCORDANCE WITH THE CHARTER ON 12-28-2021

CLERK OF COUNCIL

New language is underscored. Deleted language is struck through.