



City of Bowie

2614 Kenhill Drive
Bowie, Maryland 20715

MEMORANDUM

TO: Bowie City Council

FROM: Elissa D. Levan, City Attorney *edl*

CC: David J. Deutsch, City Manager

DATE: August 17, 2007

SUBJECT: Ordinance O-11-07 – Amending Chapter 14 to add a provision for enforcement of certain traffic offenses

Staff has been advised recently of complaints from several City residents concerning truck traffic in the Chestnut Avenue/14th Street neighborhood. The residents complain that truck traffic is cutting through the neighborhood to avoid the bridge over the railroad tracks and certain stop signs on Chestnut Avenue, and thereby creating a nuisance. They have requested that the City take some action to prevent this activity.

In investigating these complaints and the possibility of restricting truck traffic on the streets in question, it has come to Staff's attention that the City Code currently contains no provision for enforcing a restriction on truck traffic. Should Council decide, in this instance or in any other case, that it can and should restrict or prohibit truck traffic (or that it wishes to regulate traffic in other respects as may be permitted by Title 25 of the Transportation Article of the Maryland Annotated Code), there is no provision making it unlawful to contravene such regulation or prescribing a penalty for such offense. (The absence of such a provision probably results from the fact that, historically, the burden of enforcing it would have fallen on code enforcement officers, for whom stopping drivers involved in moving violations would have been difficult or impossible, not to mention potentially dangerous.)

We attach an ordinance that proposes to create a new Section 14-17A that makes it unlawful for any person to operate a motor vehicle on any City street in contravention of a traffic regulation device or posted sign. The ordinance also makes the violation of the new section a misdemeanor. Misdemeanors are punishable, in Section 1-6 of the Code, by a fine of \$500 and thirty (30) days in jail; realistically, it is unlikely that a court will impose any jail time for this sort of offense unless there is some sort of peculiar aggravating circumstance, such as habitual offenses.

ORDINANCE
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND,
AMENDING CHAPTER 14, "MOTOR VEHICLES AND TRAFFIC", ARTICLE III,
"STOPPING, STANDING AND PARKING", TO AMEND THE TITLE
OF ARTICLE III TO READ, "STOPPING, STANDING AND PARKING, AND TRAFFIC
OFFENSES", AND TO ADD SECTION 14-17A, "OPERATION OF A MOTOR
VEHICLE IN CONTRAVENTION OF TRAFFIC REGULATION DEVICES OR
POSTED SIGNS", MAKING IT UNLAWFUL TO OPERATE A MOTOR VEHICLE
ON A CITY STREET IN CONTRAVENTION OF TRAFFIC REGULATION
DEVICES OR POSTED SIGNS; AND AMENDING ARTICLE VI, "PENALTIES",
SECTION 14-25, "PENALTY FOR VIOLATION OF THIS CHAPTER", TO ADD
A PENALTY FOR VIOLATION OF NEW SECTION 14-17A.

WHEREAS, pursuant to Md. Code Ann., Article 23A, § 3, the Council of the City of Bowie, Maryland ("the City Council") has the authority to pass such ordinances as it deems necessary to preserve peace and good order, to secure persons from danger and destruction and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, pursuant to Md. Code Ann., Transportation Article, § 25-102, the City Council has the specific authority to regulate traffic in certain respects as to highways under its jurisdiction; and

WHEREAS, pursuant to this authority, the City Council has enacted Chapter 14, "Motor Vehicles", Article III, "Stopping, Standing and Parking"; and

WHEREAS, § 25-102(a)(11) grants to the City the authority to regulate through truck traffic and to prohibit trucks from using any highway or alley that is not designated or maintained as a part or extension of the State or federal highway system, provided the City has designated an adequate alternate route for diverted truck traffic; and

WHEREAS, although the City has the authority to restrict truck traffic on City streets under certain circumstances, there is no provision in the City Code making it unlawful to operate a

CAPITALS : Indicate matter added to existing law
 [Brackets] : Indicate matter deleted from existing law
 Asterisks * * * : Indicate that text is retained from existing law but omitted herein.

vehicle in contravention of posted signs or traffic regulation devices setting forth such restrictions;
and

WHEREAS, the City has designated certain streets as subject to restrictions on truck traffic and wishes to continue to do so and the City Council further wishes to subject violations of such restrictions to a specific penalty.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Council of the City of Bowie, Maryland that Chapter 14, "Vehicles and Traffic", Article III, "Stopping, Standing and Parking", is amended to read as follows:

Article III. Stopping, Standing, and Parking AND TRAFFIC OFFENSES.

* * *

14-17A. OPERATION OF MOTOR VEHICLES IN CONTRAVENTION OF TRAFFIC REGULATION DEVICES OR POSTED SIGNS.

NO PERSON SHALL OPERATE A MOTOR VEHICLE ON ANY CITY STREET OR PUBLIC WAY IN CONTRAVENTION OF ANY TRAFFIC REGULATION DEVICE OR POSTED SIGN, INCLUDING BUT NOT LIMITED TO ANY DEVICE OR SIGN THAT RESTRICTS OR PROHIBITS THE USE OF SUCH STREET OR PUBLIC WAY BY TRUCKS.

Section 2. BE IT FURTHER ORDAINED AND ENACTED, by the Council of the City of Bowie, Maryland that Chapter 14, "Vehicles and Traffic", Article VI, "Penalties", Section 14-25, "Penalty for violating this Chapter", be and is hereby amended to read as follows:

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Sec. 14-25. Penalty for violation of this Chapter.

* * *

(E) A VIOLATION OF SECTION 14-17A OF THIS CHAPTER IS A MISDEMEANOR, PUNISHABLE BY A FINE OF \$500 DOLLARS AND IMPRISONMENT FOR SIX (6) MONTHS.

Section 3. BE IT FURTHER ORDAINED that this Ordinance shall become effective thirty (30) days after its enactment by the Council of the City of Bowie, Maryland provided that a fair summary of this Ordinance is published at least once prior to the date of passage and at least once within ten (10) days after the date of passage in a newspaper having general circulation in the City.

INTRODUCED by the Council of the City of Bowie, Maryland at a Regular Meeting on the 4th day of September, 2007.

PASSED by the Council of the City of Bowie, Maryland at a Regular Meeting on the _____ day of _____, 2007.

ATTEST:

THE CITY OF BOWIE, MARYLAND

Pamela A. Fleming
City Clerk

By: _____
G. Frederick Robinson, Mayor

**APPROVED AS TO FORM
AND SUFFICIENCY:**

Elissa Levan, City Attorney

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