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**MEMORANDUM**

**TO:** Bowie City Council

**FROM:** Robert H. Levan, City Attorney 

**CC:** David J. Deutsch, City Manager  
 Pamela A. Fleming, City Clerk

**DATE:** April 16, 2009

**SUBJECT:** Ordinance O-2-09

In the aftermath of the enactment of Council Ordinance O-6-08 amending the City Code to provide more directed enforcement of violations of the City Election laws, the City Council amended the Code to provide specific penalties for willful violations of the Code to be considered "misdemeanors" and for other violations of the Code to be considered "municipal infractions".

Almost immediately after the enactment of the Ordinance it became apparent in the first matter presented to the Election Board that a grey area remained which did not arise to the level of a misdemeanor or a municipal infraction warranting a \$500.00 fine. In addition, the language of the Code authorizing a hearing in cases of willful violations provided for a finding by the Board of a violation preceding the holding of hearing, thereby implying a predisposition on such matters prior to obtaining information through the hearing process which might lead to a different result.

The attached Ordinance is designed to remedy those two matters. First, the Board requests that the Council consider an amendment set forth in proposed paragraph (g) to Section 6-33, "Penalties" in which the Board is authorized to direct corrective actions with or without the assessment of fines for violations it deems to be inadvertent or minimal.

Second, subparagraph (c) is revised to authorize the Board to assess a fine for municipal infractions, i.e. non-willful violations of the Code, up to \$500.00 recognizing that the caliber of municipal infractions may vary and that the Board, with initial responsibilities for enforcement of the Code should be permitted some discretion in terms of providing remedial action for such violations.

Finally, the hearing which may be held in the case of willful violations is restructured to come before the finding by the Board in order to eliminate the suggestion of a final predetermination.

Passage of Ordinance O-2-09 is hereby recommended.

