

MEMORANDUM

TO: City Council

FROM: David J. Deutsch, City Manager

SUBJECT: Ordinance of the Council of the City of Bowie, Maryland Amending Chapter 1, "General Provisions", Section 1-2 "Definitions and Rules of Construction," to Designate Bowie Police Officers as City Code Enforcement Officers; Ordinance O-1-11

DATE: November 30, 2010

The Bowie City Council may provide that a violation of any provision of the Bowie City Code shall be a "municipal infraction" unless the violation is declared to be a felony or a misdemeanor by State law. *See* Annotated Code of Maryland, Art. 23A, §3. A municipal infraction is any violation of the Bowie City Code that has been specifically declared to be an infraction. *See* Bowie City Code, Sec. 1-2 "Definitions and rules of construction." A municipal infraction is a civil offense. The Bowie City Council may also provide that violations of the City Code are misdemeanors, which are criminal offenses.

Pursuant to Article 23A, Section 3, those officials authorized by the Bowie City Council to act as enforcement officers may serve a municipal infraction citation on any person whom they believe is committing or has committed a municipal infraction. Bowie City Code, Sec. 1-6 "Misdemeanor; municipal infractions; general penalty; continuing violations" states that citations for municipal infractions shall be issued by Code Enforcement Officers. "Code Enforcement Officer" is defined as "an employee of the City authorized by the City Manager to issue citations for violations of this Code." Bowie City Code, Sec. 1-2 "Definitions and rules of construction." The definition does not specifically state that a Bowie Police Officer is a Code Enforcement Officer.

There are several provisions of the City Code, the violation of which are deemed to be municipal infractions, which occur at times when Code Enforcement Officers are not on duty. An example is the Environmental Noise Control provisions of Chapter 13 of the City Code. To ensure that the City is able to enforce its ordinances at all times, staff recommends that you amend Chapter 1, Section 1-2 to authorize Bowie Police Officers to issue municipal infractions.

The impetus for this proposed Code change was a couple events earlier this year that demonstrated the need for more comprehensive enforcement tools, particularly in relation to late night noise issues.

ORDINANCE
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND,
AMENDING CHAPTER 1, “GENERAL PROVISIONS”, SECTION 1-2 “DEFINITIONS
AND RULES OF CONSTRUCTION,” TO DESIGNATE BOWIE POLICE OFFICERS
AS CITY CODE ENFORCEMENT OFFICERS

WHEREAS, pursuant to Article 23A of the Annotated Code of Maryland (“Article 23A”), 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, Article 23A, Section 3 “Violations of Ordinances and Resolutions” provides that the legislative body of a municipality may provide that violations of any municipal ordinance shall be a "municipal infraction" unless the violation is declared to be a felony or a misdemeanor by State law. A municipal infraction is a civil offense; and

WHEREAS, pursuant to Article 23A, Section 3, those officials authorized by the legislative body of a municipality to act as enforcement officers may serve a municipal infraction citation on any person; and

WHEREAS, pursuant to this authority, the City Council has enacted numerous ordinances that are codified in the Code of the City of Bowie and has made the violation of many of the ordinances a municipal infraction; and

WHEREAS, the Bowie City Code, Sec. 1-2 “Definitions and rules of construction” defines Code Enforcement Officer, but does not specifically state that a Bowie Police Officer is a Code Enforcement Officer; and

WHEREAS, violations of certain ordinances, such as those codified in City Code, Chapter 13 “Environmental Noise Control,” tend to occur at times when Code Enforcement Officers are not on duty; and

WHEREAS, the City Council desires to ensure that City Ordinances can be enforced at all times; and

WHEREAS, the City Council deems it to be in the best interest of the City to specifically designate City police officers as City Code Enforcement Officers.

Section 1. **NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Council of the City of Bowie, Maryland that Chapter 1, “General Provisions,” Section 1-2, “Definitions and rules of construction”, of the City Code be and is hereby amended to read as follows:

Sec. 1-2. Definitions and rules of construction

A. As used in the Bowie City Code, the following terms shall have the meanings indicated, unless a contrary meaning is clearly intended from the context in which the term appears:

* * * *

Code Enforcement Officer. The term "Code Enforcement Officer", **ALSO REFERRED TO HEREIN AS CITY CODE COMPLIANCE OFFICER**, shall mean an employee of the City authorized by the City Manager to issue citations for violations of this Code **AND CITY OF BOWIE POLICE OFFICERS**. [Code Enforcement Officer shall include certain employees of the City as the City Manager shall designate from time to time.]

* * * *

CAPITALS : Indicate matter added to existing law.
[Brackets] : Indicate matter deleted from existing law.
* * * : Indicate unchanged text in existing law omitted herein.

Section 2. 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 6 day of December, 2010.

PASSED by the Council of the City of Bowie, Maryland at a regular meeting on the ____ day of _____, 2010.

ATTEST:

THE CITY OF BOWIE, MARYLAND

Pamela A. Fleming
City Clerk

By: _____
G. Frederick Robinson, Mayor

APPROVED AS TO FORM AND SUFFICIENCY:

Robert H. Levan, City Attorney

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