

AMENDED ORDINANCE 44 - 22

An Ordinance Amending Chapter 291 of the City of Bexley Codified Ordinances to add section 291.02 authorizing certain City officials to issue subpoenas in furtherance of investigations of misdemeanor crimes

By Jen Robinson

WHEREAS, the Bexley Police Department, when investigating criminal misdemeanors, are in need of subpoenas for information and documents in the course of these investigations; and

WHEREAS, The Franklin County Municipal Court, as a general practice does not issue subpoenas in misdemeanor cases; and

WHEREAS, the use of subpoenas instead of warrants can be more effective and less intrusive;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1.

That Chapter 291 of the City of Bexley Codified Ordinances be amended to add section 291.02 as follows:

291.02 MISDEMEANOR INVESTIGATION; EXAMINATION OF WITNESSES AND EVIDENCE.

(a) After a misdemeanor offense has been committed, and before a criminal complaint has been filed or an arrest has been made, the Mayor's Court Magistrate, City Attorney, Acting City Attorney, or any judge of the Franklin County Municipal Court, may cause a subpoena, with a copy of this section attached, to issue returnable before such court, for any person to give information concerning such misdemeanor offense, including designated books, records, or other documents. The subpoena shall require the witness to appear forthwith at a time designated in the subpoena. In cases when the subpoena only seeks books, records, or other documents, the subpoena may allow the responding party to provide such documents in lieu of appearing.

(b) Before a witness is required to give information or produce documents under this section, the witness must be informed of the purpose of the inquiry, and that the witness is required to tell the truth concerning same. The witness shall then be sworn and be examined under oath by the Mayor's Court Magistrate, City Attorney, Acting City Attorney, or by the court, subject to the constitutional right against self-incrimination.

(c) If after being sworn, or during the inquiry, a witness subpoenaed under this section asserts the constitutional right against self-incrimination, the Mayor's Court Magistrate, City Attorney, or the Acting City Attorney shall cease the inquiry.

(d) No person shall fail to appear, or fail to be sworn, at the designated time and place in response to a subpoena issued under this section. A witness who has been subpoenaed and intends to assert the constitutional right against self-incrimination is not excused from appearing or being sworn in response to a subpoena issued under this section but may assert such privilege after appearing and being sworn, and at such time the parties shall proceed in accordance with division (c) of this section.

(e) Any person who violates division (d) of this section is guilty of a minor misdemeanor upon first offense and is guilty of a misdemeanor of the fourth degree upon second and subsequent offenses.

Section 2.

That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants for the reason that this Ordinance is required to be immediately effective, wherefore this Ordinance shall be in force and effect immediately upon its passage by and approval by the Mayor.

Passed: November 15, 2022

Attest: Matt McPeek
Matt McPeek Clerk of Council

Troy Markham
Troy Markham, Council President

Ben Kessler
Mayor Ben Kessler

First Reading: November 8, 2021
Second Reading: November 15, 2022
Third Reading: Suspended