

# TOWN COUNCIL



## STAFF REPORT Police Department

<b>MEETING DATE:</b>	March 10, 2014
<b>PROJECT:</b>	Ordinance Amending Chapter 18 General Offenses, Article IV Offenses Against the Peace; Public Policy Adopting New Section 18-86 Interference with Public Duties – Second/Final Reading
<b>PROJECT MANAGER:</b>	Joey Reynolds, Chief of Police

**RECOMMENDATION:** Town Staff recommends that Town Council approve Second/Final Reading of an Ordinance amending Chapter 18 General Offenses, Article IV Offenses Against the Peace; Public Policy Adopting New Section 18-86 Interference with Public Duties.

**UPDATE SINCE FIRST READING:** On February 10, 2015, Town Council approved First Reading of this Ordinance as presented by Town Staff. As a result no changes have been made to the Ordinance since First Reading approval.

**BACKGROUND:** As a result of recent Town Council direction and Town Staff's on-going review of the regulations and requirements governing the community, Town Staff presented several ordinances for Town Council consideration at the January 20, 2015 Town Council workshop. Among other items, this included a new Ordinance prohibiting the interference of a public official in performing his/her public duties in the Town of Bluffton. In general, this draft ordinance amendment included the following:

1. Established clear actions that constitute interfering with a public official performing duties acting in his/her official capacity.
2. Made clear that such actions do not include the use of Free Speech.

After review of the draft ordinance, Town Council directed Town Staff to clarify the employees of the Town are those that are elected, appointed, and employed. The current Ordinance contains this change.

**TOWN COUNCIL ACTIONS:** Town Council has the authority to take the following actions with respect to this request:

1. Approve the Ordinance as submitted;
2. Approve the Ordinance with conditions; or
3. Deny the Ordinance as submitted.

**ANALYSIS:** Although there are interference protections in the State Law for officials attempting to service or execute a legal writ or arrest, there are no such protections or official executing other duties, such as but not limited to, dispersing a crowd,

investigating a crime scene, and other such official duties necessary to administer and enforce the laws of the Town and State. Although more descriptive in defining actions that constitute interference, this Ordinance is generally modeled after a similar Ordinance in the City of Beaufort.

These changes, as proposed by Town Staff and recommended by Town Council at the recent Town Council Workshop, are necessary to ensure that Town Officials have reasonable tools providing for their protection in exercising their official duties.

**ADOPTION PROCESS:** These amendments are being processed according to the following schedule:

1. Town Council Workshop – January 20, 2015;
2. Town Council First Reading – February 10, 2015; and
3. Town Council Second Reading – March 10, 2015.

**ATTACHMENTS:**

1. Ordinance No. 2015-\_\_\_\_\_
  - a. Exhibit A – New Section 18-86 Interference with Public Duties

ORDINANCE NO. 2015 - \_\_\_\_\_

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING CHAPTER 18 GENERAL OFFENSES, ARTICLE IV  
OFFENSES AGAINST THE PEACE; PUBLIC POLICY ADOPTING NEW SECTION 18-86  
INTERFERENCE WITH PUBLIC DUTIES

**WHEREAS**, the Town of Bluffton desires to improve the general safety, welfare, health and properties of the citizens of the Town of Bluffton; and,

**WHEREAS**, to establish the necessary provisions to accomplish the above, the Town of Bluffton has authority to enact resolutions, ordinances, regulations, and procedures pursuant to South Carolina Code of Laws 1976, Section 5-7-30; and,

**WHEREAS**, the Code of Ordinances for the Town of Bluffton Chapter 18, Offenses and Miscellaneous Provisions, Article IV, Offences Against the Peace; Public Policy does not currently include regulations pertaining to the interference of public duties; and,

**WHEREAS**, the Town Council shall from time to time examine ordinances to ensure that they are properly regarded, enforced, sufficient and satisfactory to the needs of the community and can further suggest changes as deemed appropriate; and,

**WHEREAS**, the Town of Bluffton Town Council desires to establish a new Section 18-86 Interference with Public Duties to enable the Town of Bluffton to better facilitate, regulate, supervise, and provide consistent treatment throughout the Town.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA**, in accordance with the foregoing, the Town hereby amends the Code of Ordinances for the Town of Bluffton as follows:

**SECTION 1. AMENDMENT.** The Town of Bluffton hereby amends the Code of Ordinances for the Town Of Bluffton, South Carolina by adopting and incorporating a new Section 18-86 Interference with Public Duties to Chapter 18, Offenses and Miscellaneous Provisions, Article IV, Offences Against the Peace as shown in Exhibit A, which is attached and incorporated hereto.

**SECTION 2. REPEAL OF CONFLICTING ORDINANCES.** All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 3. ORDINANCE IN FULL FORCE AND EFFECT.** This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

This Ordinance was read and passed at first reading on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Lisa Sulka, Mayor  
Town of Bluffton, South Carolina

\_\_\_\_\_  
Sandra Lunceford  
Clerk, Town of Bluffton, South Carolina

This Ordinance was passed at second reading held on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Lisa Sulka, Mayor  
Town of Bluffton, South Carolina

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Sandra Lunceford  
Clerk, Town of Bluffton, South Carolina

**ARTICLE IV – OFFENSES AGAINST THE PEACE; PUBLIC POLICY**

**Sec. 18-86. Interference with Public Duties.**

- (a) It shall be unlawful for any person to willfully resist, obstruct, hinder, impair, prevent, , or otherwise interfere with the performance of a legitimate government function by a public servant or to aid or abet any such resistance, obstruction, hindrance, impairment, prevention, or other interference by:
  - (1) Preventing or hindering access to a property or a person by a public servant, acting under the color of his/her official authority, for the purpose of pursuing an investigation or performing a legitimate government function; or,
  - (2) Using or threatening to use physical force or violence against a public servant; or,
  - (3) Refusing or disobeying a request to withdraw from the immediate area of the public official; or,
  - (4) Refusing or disobeying a request from a public servant to withdraw from the immediate area to allow the public servant to perform his/her legitimate government functions; or,
  - (5) Using any other means that create a risk or cause physical injury to the public servant.
- (b) For the purposes of this Section, the term public servant means any officer or employee of the Town of Bluffton, whether employed, elected or appointed, and any person participating as an advisor or consultant or otherwise performing a governmental function of the Town.
- (c) It shall be an affirmative defense to prosecution under this Section that the interruption, disruption, impediment, or interference alleged consisted of free speech only.

**Secs. 18-~~868~~7 – 18-113. Reserved.**