

ORDINANCE NO. 3655

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, ENTITLED "AN ORDINANCE TO AMEND SECTION 11-113 OF THE CODE OF THE CITY OF CUMBERLAND ENTITLED 'OPEN CONTAINERS OF ALCOHOL' BY REPEALING AND RENACTING SUBSECTION (d) THEREOF IN ORDER TO CHANGE THE CHARACTERIZATION OF THE PENALTY FOR A VIOLATION OF SECTION 11-113 FROM A MISDEMEANOR TO A MUNICIPAL INFRACTION."

WHEREAS, at present, Section 11-113(d) of the Code of the City of Cumberland provides that the penalty for violating Section 11-113 is a misdemeanor punishable by the imposition of a fine not to exceed two hundred fifty dollars (\$250.00);

WHEREAS, by virtue of the characterization of the violation of the aforesaid Code provision as a misdemeanor, the fines collected for violations thereof are payable to the State of Maryland;

WHEREAS, by changing the characterization of the violation of the aforesaid Code provision to a municipal infraction, the fines imposed pursuant to its terms would be payable to the City of Cumberland;

WHEREAS, the Mayor and City Council of Cumberland are of the opinion that a violation of Section 11-113 is more in the nature of a municipal infraction because violations of its terms are not subject to the penalty of incarceration;

WHEREAS, in that the City of Cumberland Police Department is responsible for enforcing Section 11-113, it is appropriate that the fines collected for violations of its terms be remitted to the City of Cumberland; and

WHEREAS, it is of the opinion of the Mayor and City Council of Cumberland that repealing and reenacting Section 11-113(d) of the Code of the City of Cumberland is in the best interests of the City of Cumberland for the foregoing reasons.

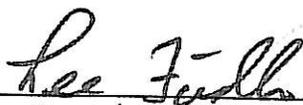
NOW THEREFORE:

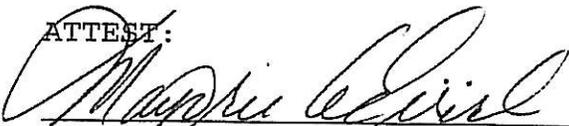
SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that Section 11-113(d) of the Code of the City of Cumberland be and is hereby repealed and reenacted. As reenacted, the said Code provision shall provide as follows:

(d) *Penalties.* Any violation of any provision of this section shall be a municipal infraction and the violator shall be subject to a fine not to exceed \$250.00.

SECTION 2: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that this Ordinance shall take effect from the date of its passage.

Passed this 13th day of October, 2009.

  
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Lee N. Fiedler, Mayor

ATTEST:  
  
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Marjorie A. Eirich, City Clerk

1<sup>st</sup> Reading: 10/13/09  
2<sup>nd</sup> Reading: 10/13/09  
3<sup>rd</sup> Reading: 10/13/09  
Effective: 10/13/09