

AMENDING AND ENACTING CERTAIN SECTIONS OF PART 3  
TRAFFIC CODE AND PART 5 GENERAL OFFENSES CODE OF THE  
CODIFIED ORDINANCES OF THE CITY OF BLUE ASH, OHIO,  
INCORPORATING CHANGES IN STATE LAW AND OTHER  
RELATED PROVISIONS AS SHOWN ON THE ATTACHMENT; AND  
DECLARING AN EMERGENCY

WHEREAS, the City of Blue Ash, Ohio, has determined a need to update certain portions of the Codified Ordinances for the City of Blue Ash; and

WHEREAS, the City has been working with The Walter H. Drane Co. (a legal publishing firm) to prepare and publish said updating in the form of amendments and enactments; and

WHEREAS, the proposed Chapter amendments affecting the Traffic Code (Part 3) and General Offenses Code (Part 5) were reviewed by representatives from the City Solicitor's office and the City Administration; and

WHEREAS, it is necessary to incorporate said changes to be consistent with changes in State law.

Be it ordained by the Council of the City of Blue Ash, Ohio, not less than five (5) members thereof concurring,

SECTION I.

Certain sections of Part 3 Traffic Code are hereby amended (or enacted) as reflected in the attachment hereto.

SECTION II.

Certain sections of Part 5 General Offenses Code are hereby amended (or enacted) as reflected in the attachment hereto.

SECTION III.

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of City Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION IV.

This ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City of Blue Ash and its residents; the reason for the emergency being the need to immediately update the Codified Ordinances consistent with State law without undue delay. Therefore, this ordinance shall take effect and be in force from and after its passage.

PASSED this 14<sup>th</sup> day of August, 2014.

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Lee Czerwonka, Mayor

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Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

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Bryan E. Pacheco, Solicitor

### 303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

(a) Whenever any police officer finds a vehicle unattended upon any highway, bridge or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety. In addition to the above, any police officer may impound (1) any stolen, abandoned, or unroadworthy vehicle; ~~(2) or any other vehicle~~ parked at a place where parking is prohibited or which has been parked for more than one hour in excess of the time allowed for parking in any place; ~~(3) or any vehicle~~ which is involved in an accident; ~~(4) or any vehicle which fails to display the current lawfully required plates or is driven by a person who is driving without a lawful license or whose license has been suspended or revoked and is located upon any public street or other property open to the public for purposes of vehicular travel or parking;~~ (5) any vehicle which is driven by a person under the influence of alcohol, or which is in the possession of any person under the influence of alcohol; ~~and (6) or any vehicle~~ which is in the possession of any person who has been physically arrested. If the vehicle is impounded at the Blue Ash Police Department Impound Facility, any person desiring to redeem such impounded vehicle shall first pay to this Municipality a basic impoundment charge; daily storage fees for any services performed by this Municipality in order to properly maintain such impounded vehicle; and for any direct towing fees incurred by the City of Blue Ash as authorized by Ohio R.C. 4513.60 and Ohio R.C. 4513.61. These charges and/or fees shall be in accordance with rates, terms, and/or conditions set forth in the Police Rotation Wrecker Regulations and Permissible Fees (PRW) established by City Council. The charges and/or fees may be amended from time to time as deemed necessary by City Council. The Chief of Police shall maintain the PRW. Furthermore, the Chief of Police may prescribe such other administrative rules as necessary to implement the provisions contained within Ohio R.C. Chapter 4513 and Part Three Traffic Code of the City of Blue Ash.

If the owner of an impounded vehicle files with the Mayor a statement under oath that the vehicle had been stolen and abandoned by the thief, or that the vehicle had been disabled, the Mayor shall have the power to remit all or any part of the storage or impounding charge.

(Ord. 82-110. Passed 11-11-82; Ord. 2002-80. Passed 8-8-02. Ord. 2010-2. Passed 1-14-10.)

(b) (1) Delinquent motor vehicles. A motor vehicle is a delinquent motor vehicle if it is specified in a traffic or parking citation respecting which there has been a failure to pay the applicable fine to a traffic violations bureau or to appear in court and ten days have elapsed after giving notice thereof to the registered owner of such motor vehicle by regular U.S. mail to the last known address of such registered owner.

(2) Impoundment of delinquent motor vehicle. Any police officer may impound and cause to be towed a delinquent motor vehicle. Any motor vehicle impounded as delinquent shall be released to the owner, or the person the owner has designated to receive the vehicle by written power of attorney issued by the owner, ~~person entitled to possession~~ upon proof of payment or posting of bail for the traffic or parking citation(s); and payment of the accumulated impounding and storage fees.

(3) Sale of delinquent motor vehicle. After towing or impoundment, a delinquent motor vehicle may be sold in accordance with Ohio R.C. 737.29 through 737.33 to satisfy the maximum possible fine and costs and other appropriate charges, including those set forth in subsection (a) hereof. (Ord. 82-110. Passed 11-11-82.)

(c) The Blue Ash Police Department may establish a list of qualified wrecker services and may call upon these wrecker services in a rotation manner to provide towing for vehicles described in subsection (a) or for assisting disabled motorists at their request. In order for said qualified wrecker services to remain on the rotation wrecker list, the owner/operator must agree to the regulations as established by the Chief of Police for the Rotation Wrecker System (RWS). Failure to do so will result in the wrecker service being removed from this rotation wrecker list.

(d) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

(Ord. 2010-2. Passed 1-14-10.)

## 523.01 DEFINITIONS.

As used in this chapter, certain terms and words are defined as follows:

(a) "Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet or any similar materials. The term cigarette includes both clove cigarettes and hand-rolled cigarettes.

(b) "Tobacco products" includes the proceeds, yield or final form of anything made up wholly or in part of the genus of the plant known as "nicotiana". Such products include but are not limited to cigars, pipe tobacco, chewing tobacco and snuff.

(c) "Alternative Nicotine Product" includes an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.

(d) "Electronic Cigarette" includes any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.

(e) "Tobacco Product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff.

(f) "Age Verification" means a service provided by an independent third party (other than a manufacturer, supplier, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is eighteen years of age or older.

(g) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(h) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises or property upon or in which the thing or substance is found.

(ei) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.



(j) “Smoke” means to burn any substance containing tobacco, including a lighted cigarette, cigar, pipe or other smoking device or material.

(k) “Use of tobacco—” means to chew or maintain any substance containing tobacco , including smokeless tobacco in the mouth to derive the effects of tobacco .

(l) “Vending machine” means any mechanical or electronic device designed to receive a coin or token and in return dispenses a product.

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#### 523.02 SALE TO MINORS PROHIBITED; POSSESSION AND USE PROHIBITED.

(a) No manufacturer, producer, distributor, supplier, wholesaler or retailer of cigarettes, ~~or other tobacco products,~~ alternative nicotine products, or papers used to roll cigarettes or any agent, employee or representative of a manufacturer, producer, distributor, supplier, wholesaler or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes or other person or other tobacco products shall do any of the following:

(1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~or other tobacco products~~ to any person under eighteen (18) years of age.

(2) Give, sell or distribute cigarettes , other tobacco products, alternative nicotine products, or papers used to roll cigarettes or other tobacco products in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes or other tobacco products to a person under eighteen (18) years of age is prohibited by law.

(3) Manufacture, sell, or distribute any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco.

(4) Sell cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in a small quantity than that placed in the pack or other container by the manufacturer.

(5) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes or tobacco products other than cigarettes over the Internet or through another remote method without age verification.

(6) Solicit any person under eighteen (18) years of age to purchase, deliver, or have delivered, cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

(7) Knowingly furnish any false information as to the name, age or other identification of any person under eighteen (18) years of age for the purpose of obtaining, or with the intent to obtain, cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for a person under eighteen (18) years of age, by purchase or as a gift.

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(b) Whoever violates any provision of section (a) is guilty of a misdemeanor of the fourth degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

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(c) No person under the age of eighteen (18) years shall do any of the following:

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(1) Purchase, possess, smoke or use cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes or other tobacco products.

(2) No person under the age of eighteen (18) years shall order, pay for, share the cost of, or attempt to purchase cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes or any tobacco products.

(3) Solicit any person to purchase, deliver, or have delivered, cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes or other tobacco products.

(4) Knowingly show or give false information concerning his name, age or other identification for the purpose of purchasing or otherwise obtaining cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place in the City where cigarettes or other tobacco products are sold.

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(d) Whoever violates any provision of section (c) is guilty of a noncriminal infraction. A violation of sections (c)(1)-(3) is not committed when a child is accompanied by parent, a spouse who is 18 years of age or older, or a legal guardian of the child.

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