

INTRODUCTION: CRIMINAL JUSTICE UPDATES TO THE BLAINE MUNICIPAL CODE

Blaine's City Prosecutor and Police Department work together to provide periodic updates to sections of the Blaine Municipal Code (BMC) to comply with changes in our environment, applicable court rulings, and state and federal law.

The last proposed criminal code updates were provided in Q3 of 2018 with the addition of electronic home monitoring.

The pages which follow provide Council with proposed changes. Each proposed chapter change is preceded by an italicized summary statement explaining why the change is necessary.

This is the legend of markings used in this document:

- Explanation /commentary is in *Italic font* or *Italic red*
- Additions to the existing BMC are in **bold font**.
- Redactions to the existing BMC are in ~~strikethrough font~~.

Respectfully,

Rajeev Majumdar, City Prosecutor

Donnell Tanksley, Police Chief

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BMC TITLE 2 UPDATE – Smoking Regulations

This Chapter was put into place in 1985 and 1988, when state law and social norms did not necessarily prohibit indoor smoking or recognize the effects of 2nd hand smoke and the liability to employees subjected to smoke by their employers. With a proposed change to 'BMC 9.16.130 - Public Smoking and Vaping Prohibited', this ordinance would be redundant and not as comprehensive. Consequently, it is proposed that this chapter be struck entirely with the passage of changes to BMC 9.16.130.

~~Chapter 2.61 – SMOKING REGULATIONS~~

~~2.61.010 Smoking regulations.~~

~~Smoking is not permitted in any of the city of Blaine facilities including but not limited to: City Hall, Fire Stations I and II, City Annex (police, community development), public library, wastewater treatment plant, public works facility, community/senior center, and all Blaine vehicles and mobile equipment.~~

~~2.61.020 Violation – Penalty.~~

~~Any person intentionally violating this section by smoking, removing, defacing, or destroying a sign required by this chapter in the city of Blaine's facilities and/or vehicles is subject to a civil fine of up to \$100.00. Any penalty assessed and recovered in an action brought under this chapter shall be paid to the city of Blaine.~~

[To be more clearly regulated in 9.16.130 "Public Smoking and Vaping Prohibited"]

BMC TITLE 5 UPDATE - Fireworks

This Title was overhauled in 2011. It is in good shape there is just a practical confusion in the field between 5.16.090 which regards standard unlawful use of fireworks and 5.16.152 which regards the dangerous and reckless use:

~~5.16.152 Unlawful~~ **Reckless** discharge or use of fireworks – Penalty.

~~It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another. A violation of this section is a gross misdemeanor.~~

BMC TITLE 6 UPDATE - ANIMALS

CHAPTER 6.12 – CONTROL OF ANIMALS OTHER THAN DOGS

This Title was generally reviewed in 2009. It is in good shape there is just some redundancy to mop up, some enabling language for the rest of the prohibitions in the chapter, and a clarification as to meaning of §E:

6.12.140 Misdemeanors—Penalty **Penalties.**

Unless otherwise specified, failure to comply with, or violation of any of the provisions of this chapter, or acts deemed unlawful or prohibited by this chapter, including Any violation of the following provisions, shall constitute a gross misdemeanor and shall be punishable by a fine not to exceed \$5,000 and/or imprisonment for a period not to exceed three hundred and sixty-four days.

A. It is unlawful for any person to prevent, obstruct, or hinder the impoundment of any animal or any other enforcement duties of police officers or animal control officers pursuant to this chapter.

B. It is unlawful for a person to own, keep or maintain any wild, hybrid or exotic animal without a valid permit from the animal control authority.

C. It is unlawful for an owner or keeper to refuse to quarantine or permit the quarantine of any animal when and as required by state law ~~or and~~ this chapter.

D. It is unlawful for an owner of an exotic or wild animal to allow such animal to be at large.

E. It is unlawful for any person to **release**, take, or drive any animal from any enclosed lot or tract of land, or from any stable or other building, or from outside the limits of the city with the intent that such animal be impounded **by a municipal or other government entity or their agents or with the intent that the animal's owner be found in violation of law.**

F. ~~Except as otherwise provided, it is unlawful for an owner of any wolf or wolf hybrid to keep or maintain such animal in the city, or for the owner or keeper of any exempted wolf or wolf hybrid to fail to comply with the provisions of this title.~~ *[more clearly regulated in 6.12.070 "Regulation of wolves and wolf hybrids"]*

CHAPTER 6.16 – CRUELTY TO ANIMALS

This Title was generally reviewed in 2014. It is in good shape there is just two minor clarifications to make in order to enable all the prohibitions specified in this title:

6.16.010 Generally **Prohibited Acts**.
[Meaningful and enabling title change only]

6.16.110 Violation – Penalty.

Unless otherwise specified, failure Failure to comply with, or violation of any of the provisions of this chapter, **or acts deemed unlawful or prohibited by this chapter**, shall be deemed a gross misdemeanor, ~~and any person found guilty thereof shall be punished by a fine of not more than \$5,000 and/or imprisonment not to exceed one year.~~ The penalty may also include restitution for all costs associated with care, rehabilitation, transportation, and boarding of the animal.

BMC TITLE 9 UPDATE - PUBLIC PEACE, MORALS & WELFARE

REWORKING CRIMES AGAINST THE PERSON – CONSOLIDATION / REORGANIZATION – 9.08, 9.12, 9.20

In order to better organize the various criminal acts that affect the personal security of individuals being targeted by harassment or stalking, the following revisions and reorganizations to already existing parts of BMC are proposed, consolidating them under 9.12. These are intended to be passed as a package as it redacts parts of the code from some sections 9.08 and 9.20 and moves them to 9.12:

~~9.08.210 Violation of restraining order.~~

~~A. It is unlawful for any person having actual notice of the existence of a restraining order issued by a court of competent jurisdiction in an action for~~

~~the dissolution of marriage under Chapter 26.09 RCW to refuse to comply with the provisions of such order when requested by any peace officer of the state.~~

~~B. The notice requirements of subsection A of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy, certified to be an accurate copy of the original, on file by a notary public or the clerk of the court, of the court order, which copy may be supplied by the court, the complainant or the complainant's attorney.~~

~~C. The remedies provided by this section shall not apply unless restraining orders subject to this section bear the legend: "VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OR ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND IS ALSO SUBJECT TO CIVIL CONTEMPT PROCEEDINGS."~~

~~D. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule; provided, that no right of action shall accrue against any peace officer acting upon a properly certified copy of the court order, lawful on its face, if such officer employs otherwise lawful means to effect the arrest.~~

[Replaced already by Emergency Ordinance on 8/8/22 amending BNM 9.12.130, "Violations of No Contact Orders"]

9.12.100 Telephonic harassment **and Cyberstalking.**

(A) Telephonic Harassment. A person is guilty of the gross misdemeanor of Telephonic harassment if they ~~Every person who,~~ with intent to harass, intimidate, torment or embarrass any other person, makes a voice call, or leaves a voice message, utilizing a phone, computer or other electronic or recorded means, to such other person **or a third party:**

~~A. 1.~~ Using any lewd, lascivious, profane, indecent or obscene words or language, or suggesting the commission of any lewd or lascivious act; or

~~B. 2.~~ Anonymously or repeatedly or at an extremely inconvenient hour makes contact, whether or not conversation ensues; or

~~C. 3.~~ Threatening to inflict injury on the person or property of the **targeted** person called or any member of his family **or her family or household;** or

~~D. 4.~~ Without purpose of legitimate communication, ~~is guilty of a gross misdemeanor.~~

(B) Cyber Stalking. A person is guilty of the gross misdemeanor of cyberstalking if they, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party:

1. Using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act; or

2. **Anonymously or repeatedly whether or not conversation occurs; or**

3. **Threatening to inflict injury on the person or property of the targeted person or any member of their family or household; or**

4. **Without purpose of legitimate communication.**

(C) **The crimes in this section may be deemed to have been committed either at the place from which the telephone call(s) or electronic communication(s) were made or at the place where the telephone call(s) or electronic communication(s) were received.**

(D) **For purposes of this chapter, "Electronic Communication" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic communication" includes, but is not limited to, electronic mail, Internet-based communications, pager or cellular service, and electronic text messaging.**

[New additions consolidated and moved from 9.20.135]

9.12.110 Enabling harassment.

Any person who knowingly permits any telephone, computer or other electronic or recording device under his control to be used for any purpose prohibited by **this BMC Title 9 .12.100, 9.20.130, 9.20.132 or 9.20.135** is guilty of a misdemeanor.

~~9.12.120 Telephone harassment — Place of commission.~~

~~Any offense committed by use of a telephone as set forth in BMC 9.12.100 may be deemed to have been committed either at the place from which the telephone call or calls were made or at the place where the telephone call or calls were received.~~

[Moved to and consolidated with 9.12.100]

9.12.120 Harassment and stalking.

Chapter 9A.46 RCW, as now enacted or hereafter amended, is adopted by reference into the Blaine Municipal Code.

[Moved from 9.20.130]

9.12.125 Harassment – Second degree.

A. A person is guilty of the misdemeanor of Harassment in the Second Degree if, without lawful authority, the person knowingly:

1. Disturbs the reasonable repose, privacy and comfort of another person in public after being asked to refrain; or

2. Makes multiple telephonic, electronic or analogous contacts with another person within a 24-hour period after being asked to refrain.

B. A person is guilty of the misdemeanor of Harassment in the Second Degree- Domestic Violence if, without lawful authority, the person knowingly commits the crime of Harassment in the Second Degree and further the victim is a family or household member as defined by RCW 10.99.020. A conviction of this crime shall be marked as a crime of domestic violence, in any paper or electronic judicial or law enforcement record keeping system the court utilizes.

[Moved from 9.20.132 and modified to add DV option]

9.12.140 Domestic violence assessment.

A. Any person convicted of a crime involving domestic violence may be assessed a penalty of \$100.00 (DV assessment). This assessment shall be in addition to, and shall not supersede, any other penalty, restitution, fines, or costs provided for by law.

B. A "crime involving domestic violence," as used in this section, means any crime **identified as a domestic violence or "DV" crime in this title or** as defined by RCW 10.99.020, as presently constituted or hereinafter amended, and the violation of any equivalent ordinances whether presently or hereinafter enacted by the city of Blaine.

C. "Convicted," as used in this section, shall include a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, or the levying of a fine. Nothing herein prevents the city from assessing the DV assessment upon the stipulation of the accused as part of a plea or other agreement when a person has been charged with a crime involving domestic violence.

~~9.20.130 Harassment and stalking.~~

~~Chapter 9A.46 RCW, as drafted and amended, is adopted by reference into the Blaine Municipal Code.~~

[Moved to 9.12.120]

~~9.20.132 Harassment—Second degree.~~

~~A person is guilty of the misdemeanor of harassment in the second degree if, without lawful authority, the person knowingly:~~

~~A. Disturbs the reasonable repose, privacy and comfort of another person in public after being asked to refrain; or~~

~~B. Makes multiple telephonic, electronic or analogous contacts with another person within a 24-hour period after being asked to refrain.~~

[Moved to 9.12.125]

~~9.20.135 Cyberstalking.~~

~~A. A person is guilty of the gross misdemeanor of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party:~~

~~1. Using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;~~

~~2. Anonymously or repeatedly whether or not conversation occurs; or~~

~~3. Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.~~

~~B. Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.~~

~~C. For purposes of this section, "electronic communication" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic communication" includes, but is not limited to, electronic mail, Internet-based communications, pager service, and electronic text messaging.~~

[Moved to 9.12.100(B)]

9.04, GENERAL PROVISIONS – VIOLATIONS

This chapter was last updated in 2014 to modernize it, but a few more updates are suggested, to fill in gaps and to conform to modern case law regarding interpretation and costs that can be imposed. Further, in order to better affect the efficiency and security of its criminal justice system, meaning its courts, judges, pro-tem judges, administrative law judges, prosecutors, public defenders and conflict prosecutors and public defenders, city policy on indemnification should be clearly stated, and adopted. The indemnification policy is modeled on BMC 9.04.200 and .210, which should also be consolidated for clarity.

9.04.020 Definitions.

As used in this Title 9, words used in the present tense include the future tense; any gender pronouns or references include masculine, feminine, intersex, transgender, and neutral genders; and the singular includes the plural and vice versa. In this title, unless a different meaning plainly is required:

...[the remainder of 9.04.020 should remain the same]

9.04.030 Jurisdiction.

The following persons are liable to punishment:

A. A person who commits within this jurisdiction any crime, in whole or in part;

B. A person who commits out of this jurisdiction any act which, if committed within it, would be theft, and is afterward found in this jurisdiction with any of the stolen property;

C. A person who, being out of this jurisdiction, counsels, causes, procures, aids or abets another to commit a crime in this jurisdiction;

D. A person who, being out of this jurisdiction, abducts or kidnaps by force or fraud any person, contrary to the laws of the place where the act is committed, and brings, sends or conveys such person into this jurisdiction;

E. A person who commits an act without this jurisdiction which affects persons or property within this jurisdiction; ~~and, would be a crime.~~

F. Any act committed by a voice call, a voice message, utilizing a phone, facsimile machine, computer, or other electronic or recorded means may be deemed to have been committed in this jurisdiction if either the place from which the act was committed or the place where the act was received is in this jurisdiction.

~~9.04.100 Prosecution – Costs to be paid.~~

~~Whenever a~~ **Anyone is convicted of an offense under any section of this penal code, or section of any other city ordinance must pay, in addition to any the fine imposed and to the extent allowed by law, the costs of restitution, probation, jail, and any other fees the court imposes in its discretion or as required by law. Unpaid costs may result in pursuit of a civil judgment or use of a collection agency, and costs incurred in seeking those remedies will be imposed.** ~~he must pay the costs of prosecution. In default of such payment, he shall be imprisoned until such fine is paid or worked out on the basis of \$8.00 per each day of imprisonment.~~

~~9.04.200 Defense of city officers – Policy of city.~~

A. It is the public policy of the city under its police power to provide legal defense and make payment therefor from city funds to defend the acts of its officers in any civil action brought against them for a cause arising out of the performance of their official duties.

B. Prior to the authorization of employment of any such legal defense, as contemplated in BMC 9.04.200, the city council, in regular session assembled, must find: (1) That the officer was acting in a matter in which the city had an interest; (2) That the officer was acting in discharge of a duty imposed or authorized by law; and (3) The officer acted in good faith.

~~9.04.210 Defense of city officers – Findings required.~~

~~Prior to the authorization of employment of any such legal defense, as contemplated in BMC 9.04.200, the city council, in regular session assembled, must find:~~

~~A. That the officer was acting in a matter in which the corporation had an interest;~~

~~B. That the officer was acting in discharge of a duty imposed or authorized by law; and~~

~~C. The officer acted in good faith.~~

[Consolidated into 9.04.200]

9.08 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

This chapter was last updated in 2014 to modernize it, but one update is suggested, to fill in a gap in enforcement authority, to conform to modern case law and otherwise modeled on State law; and one to bring misdemeanor classification language current.

9.08.025 Failure to obey officer.

A. All people have the following duties:

1. Any person requested or signaled to stop by an officer for a traffic infraction, or a criminal investigation, has a duty to stop.

2. Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

3. Any person requested to identify himself or herself to an officer pursuant to an investigation of a traffic infraction, and is capable of doing so, has a duty to identify their self and give their current address.

4. Any person requested to remain in their car during a stop has a duty to remain in their car absent emergency circumstances.

B. Any person who willfully fails to provide information or stop when requested or signaled to do so by a person reasonably identifiable as an officer or to comply with the duties outlined in 9.08.025(A), is guilty of a misdemeanor.

9.08.100 Attempting to commit a crime.

A. A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.

B. If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

C. An attempt to commit a crime is a:

1. Gross Misdemeanor ~~Class A misdemeanor~~ when the crime attempted is a Class C felony;

2. Misdemeanor ~~Class B misdemeanor~~ when the crime attempted is a gross misdemeanor;

3. Misdemeanor ~~Class B misdemeanor~~ when the crime attempted is a misdemeanor.

CHAPTER 9.12, OFFENSES AGAINST THE PERSON.

This chapter was last updated in 2014 to modernize it, but a few more updates are suggested, to fill in gaps, consolidate code, and at the suggestion of the

Domestic Violence victim support community. The following proposals are offered:

~~9.12.010 Refrigeration equipment in dangerous condition —Discarding or abandoning.~~

A. Discarding or abandoning. Any person who discards or abandons or leaves in any place accessible to children any refrigerator, icebox or deep-freeze locker having a capacity of one and one-half cubic feet or more, which is no longer in use, and which has not had the door removed or a portion of the latch mechanism removed to prevent latching or locking the door, is guilty of a misdemeanor.

B. Allowing to remain on premises. Any owner, lessee or manager who knowingly permits an unused refrigerator, icebox, or deep-freeze locker, as described in this section, to remain on the premises under his control without having the door removed or a portion of the latch mechanism removed to prevent latching or locking of the door is guilty of a misdemeanor.

C. Storage for sale. Any person who keeps or stores refrigerators, iceboxes, or deep-freeze lockers for the purpose of selling or offering them for sale is not guilty of a violation of this chapter if they take reasonable precautions to effectively secure the door of any refrigerator, icebox or deep-freeze locker held for the purpose of sale so as to prevent the entrance of children small enough to fit into such articles.

~~9.12.020 Refrigeration equipment in dangerous condition —Allowing to remain on premises.~~

~~Any owner, lessee or manager who knowingly permits such an unused refrigerator, icebox or deep-freeze locker to remain on the premises under his control without having the door removed or a portion of the latch mechanism removed to prevent latching or locking of the door is guilty of a misdemeanor.~~

[Moved to and consolidated with 9.12.010]

~~9.12.030 Refrigeration equipment in dangerous condition —Storage for sale. Any person who keeps or stores refrigerators, iceboxes or deep-freeze lockers for the purpose of selling or offering them for sale is not guilty of a violation of this chapter if he takes reasonable precautions to effectively secure the door of any refrigerator, icebox or deep-freeze locker held for the purpose of sale so as to prevent the entrance of children small enough to fit into such articles.~~

[Moved to and consolidated with 9.12.010]

~~9.12.040 Assault — Domestic violence.~~

~~_____ A. _____ A person is guilty of assault, with a domestic violence enhancement, if he:~~

~~_____ 1. Intentionally causes bodily harm by unlawful touching, striking, beating or wounding of another person; or~~

~~_____ 2. Attempts by force or violence to cause bodily harm to another person; or~~

~~_____ 3. Intentionally places or attempts to place another person in fear or apprehension of bodily harm by an act, word or threat; and~~

~~_____ 4. The victim is a family or household member as defined by RCW 10.99.020.~~

~~_____ B. _____ Any person guilty of assault — domestic violence is guilty of a gross misdemeanor.~~

[Substituted with and consolidated into new 9.12.040]

9.12.040 Assaults

A. Simple Assault. A person is guilty of the gross misdemeanor of simple assault, if they:

1. Intentionally causes bodily harm by unlawful touching, spitting on, throwing objects at, striking, beating, or wounding of another person; or

2. Attempts by force or violence to cause bodily harm to another person; or

3. Intentionally places or attempts to place another person in fear or apprehension of bodily harm by an act, word, or threat.

B. Domestic Violence Assault. A person is guilty of the gross misdemeanor of domestic violence assault, if they commit the crime of Simple Assault and further the victim is a family or household member as defined by RCW 10.99.020.

C. Sexual Assault. A person is guilty of the gross misdemeanor of sexual assault, if they, in acts not amounting to a felony assault or felony sex offense, commits the crime of Simple Assault and further does so with a sexual motivation.

1. "Sexual motivation" in this context means to do any of the following:

i. Expose or attempt to expose any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view;

ii. Commit the act in a place where a reasonable person would believe that they could disrobe in privacy, without being concerned that their undressing was being photographed or filmed by another; or

iii. Commit the act with the intent to engage in sexual intercourse, sexual gratification or sexual contact, as defined in RCW 9A.44, with the victim or a third party;

2. Domestic Violence Sexual Assault. When the victim of a Sexual Assault is a family or household member as defined by RCW

10.99.020, this crime will be classified as crime of domestic violence and will be filed under the name "Domestic Violence Sexual Assault."

9.12.045 Simple assault.

- ~~A. A person is guilty of assault if he:~~
- ~~1. Intentionally causes bodily harm by unlawful touching, striking, beating or wounding of another person; or~~
 - ~~2. Attempts by force or violence to cause bodily harm to another person; or~~
 - ~~3. Intentionally places or attempts to place another person in fear or apprehension of bodily harm by an act, word or threat.~~
- ~~B. Any person guilty of simple assault is guilty of a gross misdemeanor.~~

[Moved to and consolidated into new 9.12.040]

9.12.043 Exposing Children to Domestic Violence

A. A person is guilty of the gross misdemeanor of the crime of Exposing Children to Domestic Violence when they:

1. Commit a crime against a family or household member, as defined in RCW 10.99.020; and

2. The crime is committed in the immediate presence of, or is witnessed by, the suspect's or the victim's minor child, stepchild, or a minor child residing within the household of the suspect or victim. For the purposes of this section, "witnessed" shall mean if the crime is seen or directly perceived in any other manner by the child.

9.12.050 Coercion.

A. A person is guilty of **the gross misdemeanor of** coercion if, by use of force or threat, he compels or induces another person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

B. "Threat" in this context has the same meaning as "Threaten" under Chapter 9.04 BMC.

9.12.080 Fair housing practices – Prohibitions.

It is **a misdemeanor** ~~unlawful~~ for any person, whether acting for **their self** himself or another, because of ~~sex, marital status, race, creed, color or national origin~~ **marital status, race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability:**

[New language taken from RCW 49.60.030, but Marital Status preserved from Blaine original language]

...

[Sections A through I should remain the same]

9.12.090 Fair housing practices—Violations:

~~A violation of BMC 9.12.080 is punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail for a period not to exceed 90 days, or by both a fine and imprisonment.~~

[Change in 9.12.080 modernizes this and makes it unnecessary]

9.16 - OFFENSES AGAINST PUBLIC DECENCY

This chapter was last updated in 2014 to primarily deal with changes to marijuana law, but a few more updates are suggested, to consolidate, fill in gaps, and deal with some unconstitutional ordinances. Additionally, on 2/25/21 the WA Supreme Court ruled that drug possession crimes without an intent element were unconstitutional on their face, meaning some Blaine laws are now unconstitutional, and these changes will also correct that situation:

9.16.030 Prostitution.

A. Every person who engages or agrees or offers to engage in sexual conduct with another person in return for a fee is guilty of a misdemeanor.

B. This section shall not apply to sexual conduct engaged in as part of any stage performance, play or other entertainment open to members of the public.

C. For purposes of this section, "sexual conduct" means "sexual intercourse" as defined in RCW 9A.44.010(1) or "sexual contact" as defined in RCW 9A.44.100(2).

D. In any prosecution for prostitution, it is an affirmative defense that the actor committed the offense as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. Documentation that the actor is named as a current victim in an information or the investigative records upon which a conviction is obtained for trafficking, promoting prostitution in the first degree, or trafficking in persons shall create a presumption in any proceedings subsequent to arrest that the person's participation in prostitution was a result of having been a victim of trafficking, promoting prostitution in the first degree, or trafficking in persons.

~~9.16.040—Loitering and soliciting for prostitution:~~

~~A.—Every person who remains in a public place and intentionally solicits, induces, entices or procures another to commit prostitution is guilty of a misdemeanor.~~

~~B. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are he:~~

~~1.—Repeatedly beckons to, stops or attempts to stop, or engages passers by in conversation; or~~

~~2.—Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or~~

~~3.—Is a known prostitute or panderer.~~

[Unconstitutional vague and criminalizing of past behavior and protected activities]

9.16.040 Permitting prostitution.

A person is guilty of the misdemeanor of permitting prostitution if, having possession or control of premises which they know or should have known are being used for prostitution purposes, they fail without lawful excuse to make reasonable effort to halt or abate such use.

~~9.16.060 Promoting prostitution—Pimping.~~

~~Every person:~~

~~A. Acting other than as a prostitute or as a customer thereof, who knowingly:~~

~~1. Causes or aids a person to commit or engage in prostitution; or~~

~~2. Procures or solicits customers for prostitution; or~~

~~3. Provides persons or premises for prostitution purposes; or~~

~~4. Operates or assists in the operation of a house of prostitution or a prostitution enterprise; or~~

~~5. Engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution; or~~

~~B. Acting other than as a prostitute receiving compensation for personally rendered prostitution services, who accepts or receives money or other property pursuant to an agreement or understanding with a person whereby he participates or is to participate in the proceeds of prostitution activity; is guilty of a misdemeanor.~~

[Pimping is now a felony in every degree]

9.16.070 State statutes adopted – Controlled substances.

The following criminal provisions of the statutes contained in the RCW as they relate to drugs, prescription or otherwise, and other controlled substances, defining crimes and prescribing penalties, are adopted by this reference **and with the imposition of an element that the crime must have been done knowingly:**

Chapters 69.38, 69.40, 69.41 and 69.50 RCW, as well as the WACs incorporated by reference in those statutes.

If any of the state statutes hereby adopted by reference are amended by the State Legislature or the people, including repeal and substitution of other language or recodifications, then such amendments are further incorporated by reference in this section and the city code codification.

9.16.080 Possession of unlawful substances.

A. Possession of a Controlled Substance. Any person convicted under this article of violation of any of the provisions adopted in BMC 9.16.070 regarding poisons or scheduled substances, as adopted and amended, **where the acts alleged were done knowingly**, is guilty of possession of a controlled substance, which is a gross misdemeanor **with a maximum fine of \$1,000. A first or second offense will carry a maximum of 180 days of incarceration, and additional offenses will carry a maximum up to 364 days of incarceration.**

B. Possession of a Legend Drug. Any person convicted under this article of violation of any of the provisions adopted in BMC 9.16.070 regarding legend drugs, as adopted and amended, **where the acts alleged were done knowingly**, is guilty of possession of a legend drug, which is a misdemeanor.

9.16.093 Misdemeanor marijuana possession or dealing.

A. Any person **knowingly** possessing more than the legal amount of marijuana or marijuana-infused products is guilty of a misdemeanor.

B. Any person **knowingly** possessing marijuana or marijuana-infused products of any amount with the intent to sell and without a valid state license to do so is guilty of a gross misdemeanor.

C. Any person **knowingly** gifting, trading or selling marijuana or marijuana-infused products to a person under the age of 21 is guilty of a gross misdemeanor.

D. Any person, under the age of 21, **knowingly** possessing, **using, or consuming** any amount of marijuana or marijuana-infused products is guilty of a misdemeanor.

E. A person who is convicted of a violation of any provision of this section shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty imposed.

~~9.16.095 Public view usage of m~~**Marijuana – civil infractions.**

A. Public marijuana usage. It is unlawful to **knowingly** open a package containing marijuana, usable marijuana, or a marijuana-infused product, or consume marijuana, usable marijuana, or a marijuana-infused product, in view of the general public. The fine shall be ~~\$200.00~~ **assessed as a class 2 civil infraction, not including statutory assessments.**

B. Public marijuana manufacturing. Neither the production nor processing of marijuana or marijuana-infused products pursuant to chapter 69.50 RCW nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit. The fine shall be \$500.00 in addition to statutory assessments.

~~9.16.100 Glue sniffing—Unlawful.~~

~~It is unlawful to intentionally smell or inhale the fumes from any glue, cement or other adhesive containing one or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene, dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether or toluene, for the purpose of becoming intoxicated, inebriated, excited or stupefied; provided, that this section shall not be construed as applying to the inhalation of any anesthesia for medical or dental purposes.~~

~~*[Moved and consolidated into new 9.12.120]*~~

~~9.16.110 Glue sniffing—Violating or aiding or abetting violation.~~

~~Any person who violates the provisions of BMC 9.16.100 or counsels, aids or abets any such violation is guilty of a misdemeanor.~~

~~*[Moved and consolidated into new 9.12.120]*~~

~~9.16.120 Glue sniffing—Violators under 18 years.
Any person under the age of 18 years violating BMC 9.16.100 shall be cited to juvenile court of the state for the county for investigation and, in the event that such person is remanded by the judge of the juvenile court to the city authorities for prosecution, such person may be tried in the city police court and punished as provided for in the penalty section.~~

~~*[Replaced by and consolidated into new 9.12.120]*~~

9.16.120 Unlawful inhalation.

A. It is a misdemeanor for any person to intentionally smell or inhale the fumes of any type of substance as defined in RCW 9.47A.010 or to induce or counsel any other person to do so, for recreation, or for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.

B. This ordinance does not apply to the inhalation of any anesthesia for medical or dental purposes administered by regulated and licensed administrators of anesthesia.

~~9.16.130 Being under the influence—Prohibited.~~ **Public Smoking and Vaping Prohibited**

~~—A. It is unlawful for any person to be under the influence of any drug or other controlled substance as defined or scheduled in Chapter 69.50 RCW or to be under the influence of any substance mentioned in BMC 9.16.100 in any private premises or house to the annoyance of any individual, or in a public place, in a vehicle, in or on a public place, or in a place open to the public view or to which the public has access.~~

~~—B. For the purposes of this section, an individual is “under the influence” of a drug or other substance when any of his normal faculties are substantially affected or impaired as a result of the use of such drug.~~

A. Definitions.

1. "Public Place" means that portion of any property, building, or vehicle used by and open to the public, regardless of whether the property, building, or vehicle is owned in whole or in part by private persons or entities, the City of Blaine, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises. Public places include, but are not limited to: Public parks, schools, elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants,

waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

2. "Place of employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: Entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

3. "Smoke" or "smoking" means the carrying, use or smoking of any kind of lighted, combustible, smoldering, or burning cigarette, pipe, cigar or other lighted smoking equipment including but not limited to tobacco, flavored tobacco products such as shisha, or marijuana.

4. "Vape" or "vaping" means the use of a vapor product, or the act of inhaling/exhaling the vapor or aerosol from a vapor product.

5. "Vapor product" means any: (a) device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; (b) cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or (c) solution or substance intended for use in such a device, including, but not limited to, concentrated nicotine. "Vapor product" includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, vape pens, steam stones, or similar products or devices, as well as any parts that can be used to build such products or devices. "Vapor product" does not include any drug, device, or combination product that has been approved by the United States Food and Drug Administration for legal sales for use as a smoking cessation product or other medical purposes, and is marketed and sold for such approved purpose.

B. Prohibition. No person may smoke or use a vapor product within twenty-five feet of a public place or any place of employment except for the purpose of tastings within the premises of a vapor product retail outlet pursuant to amendments to Title 70 RCW, or except when a reduced distance variance has been specifically granted by the Whatcom County Health Department. Violation of this prohibition is a civil infraction that shall be assessed as a class 2 civil infraction, not including statutory assessments.

[Unconstitutional portions or portions duplicative of other crimes struck, and replaced with indoor smoking prohibition mirroring state statute]

~~9.16.140 Being under the influence—Violating or aiding or abetting violation.—Any person who violates, or counsels, aids or abets a violation of BMC 9.16.130 is guilty of a misdemeanor.~~

[Unconstitutional]

Article IV. Loitering

9.16.200 School Stranger Loitering. In furtherance of the city's duty to protect its most vulnerable members, it is a misdemeanor for any uninvited person to loiter on the property of any public or licensed private school, licensed childcare facility, or licensed institution of higher learning, without lawful purpose, except a person enrolled as a student in such institution, or the parents or guardians of such student, or persons employed or invited by such institution.

9.16.210 Drug Traffic Loitering. A person is guilty of the gross misdemeanor of drug traffic loitering if they remain in a public place and intentionally solicits, induces, entices, or procures another to engage in unlawful conduct contrary to Article II of this Chapter 9.16, or RCW Chapters 69.41, 69.50, or 69.52.

9.18.010 - PEDESTRIAN INFLUENCE – 'AGGRESSIVELY BEG' DEFINITION

This definition was put into place in 1988, these are minor tweaks:

9.18.010 Pedestrian influence.

The following definitions apply in this section:

A. "Aggressively beg" means to beg, **or otherwise act**, with intent to intimidate **or coerce** another person into giving **to any other person** money or goods.

...[The remainder of 9.18.010 should remain the same]

9.20 - OFFENSES AGAINST THE PUBLIC PEACE

This chapter was last updated in 2014 to modernize it, but a few more updates are suggested, to fill in gaps and at the suggestion of the Domestic Violence victim support community and law enforcement. The following proposals are offered:

9.20.050 Disorderly conduct.

A. A person is guilty of the misdemeanor of disorderly conduct if that person:

- 1.** ~~A.~~ Uses abusive or provocative language and thereby intentionally creates a risk of assault;
- 2.** ~~B.~~ Causes, encourages, provokes, or engages in any fight or brawl;

3. ~~€.~~ Makes or causes to be made any noise, or commits an act, which unreasonably disrupts the peace, comfort and repose of others, or permits such public disturbance to be made in any residence or business under their charge or control;

4. Without lawful authority intentionally disrupts any lawful assembly, funeral, memorial service, or meeting of persons; or

5. Without lawful authority intentionally obstructs vehicular or pedestrian traffic.

B. Domestic Violence Disorderly Conduct. When the victim of a Disorderly Conduct is a family or household member as defined by RCW 10.99.020, this crime will be classified as crime of domestic violence and will be filed under the name "Domestic Violence Disorderly Conduct."

9.20.080 Public nuisance – Places and acts designated.

...

B. Every act and every omission to perform a duty is a public nuisance, where said act or omission:

...

2. Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage a lake, navigable river, bay, stream, canal or basin or a public park, square, street, **sidewalk**, alley or highway; or

...[The remainder of 9.20.080 should remain the same]

9.24 Offenses Against Property

These crimes were put into place in 1980. Changes in State Law, inflation, redundancy and recommendations from our domestic violence Victim Advocate, necessitate some changes:

9.24.010 Definitions.

...

C. "Credit card" or "**Access Device**" means any instrument or device, whether incomplete, revoked or expired, whether known as a credit card, credit plate, charge plate, courtesy card, **debit card**, **government issued benefits card such as an EBT card**, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by a cardholder.

...[The remainder of 9.24.010 should remain the same]

9.24.060 Possessing **or receiving** stolen property ~~in the third degree.~~

A. Definitions.

1. "Possessing stolen property" means to receive, retain, possess, conceal, sell, pawn or dispose of stolen property knowing that

it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

2. "Knowing" in the context of stolen property means to consciously disregard a substantial and reasonable likelihood that the property has been stolen or to have knowledge that the property has been stolen. When a person has in their possession, or under their control, stolen access devices issued in the names of two or more persons, they are presumed to know that they are stolen.

B. A. A person is guilty of possessing stolen property in the third degree if:

1. He possesses stolen property which does not exceed \$**750.00** 250.00 in value; or

2. He possesses a stolen public record, writing or instrument kept, filed or deposited according to law; or

3. He possesses a stolen firearm.

C. B. Possessing stolen property is a **gross** misdemeanor and punishable as theft under BMC 9.24.030.

D. Defenses.

1. It is a defense for a person to receive or retain stolen property from a third party, if they can put forward evidence raising a reasonable inference that their purpose was to restore it to the true owner.

2. The presumption of knowledge inferred from the possession of stolen access devices issued in the names of two or more persons, is rebuttable by evidence raising a reasonable inference that the possession of such stolen access devices was without knowledge that they were stolen.

3. The fact that the person who originally stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

~~9.24.090 Receiving or possessing stolen property.~~

~~— A. A person is guilty of theft if he receives, possesses, retains or disposes of property of another knowing that it has been stolen or consciously disregarding a substantial risk that it has been stolen, unless the property is received, retained or disposed of with purpose to restore it to the owner.~~

~~— B. "Receiving" means acquiring possession, control or title, or lending on the security of the property.~~

9.24.140 Shoplifting.

A. A person is guilty **of the misdemeanor** of shoplifting if he or she **they** willfully takes possession of any goods, wares or merchandise of the value of less than \$250.00 offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the seller, with the intention of converting such goods, wares or merchandise to his own use without having paid the purchase price thereof.

B. A duly appointed city, county or state law enforcement officer may, upon a charge being made and without a warrant, arrest any person whom **they** he or she

has **have** reasonable cause to believe has committed or attempted to commit the crime of shoplifting.

~~C. First and second convictions for shoplifting shall be punishable by a maximum penalty of \$1,000. Subsequent convictions shall be punishable as a misdemeanor~~

9.24.155 Computer trespass.

A person is guilty of the gross misdemeanor of computer trespass if the person, without authorization, intentionally gains access to a computer system, non-telephonic functions on a cellular telephone, or electronic database of another under circumstances not constituting felony computer trespass.

9.24.190 Reckless burning.

A person is guilty of **the gross misdemeanor of** reckless burning if he knowingly causes a fire or explosion, whether on his own property or that of another, and thereby recklessly places a building or other structure, or any vehicle, railway car, aircraft or watercraft, or any hay, grain, crop or timber, whether cut, or standing, in danger of destruction or damage.

9.24.200 Malicious mischief ~~in the third degree~~ — Misdemeanor.

A. A person is guilty of malicious mischief ~~in the third degree~~ if he knowingly and maliciously:

1. Causes physical damage to the property of another, under circumstances not amounting to **felony** malicious mischief ~~in the first or second degree~~; or
2. Creates a substantial risk of interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power or communication.

B. Malicious mischief ~~in the third degree~~ is a gross misdemeanor ~~if the damage to the property is in an amount exceeding \$50.00; otherwise, it is a Class B misdemeanor.~~

C. Domestic Violence Malicious Mischief. When the victim of a Malicious Mischief is a family or household member as defined by RCW 10.99.020, this crime will be classified as a crime of domestic violence and will be filed under the name "Domestic Violence Malicious Mischief."

Chapter 9.32 WEAPONS

This chapter was last updated in 2014 to update definitions, but changes in state law recommend some changes to conform and to enable our officers to enforce the misdemeanor provisions regarding use of firearms to intimidate local government, assemblies, festivals and schools, as well as in regards to firearms sales and transfers. Some state law previously referred to was

rescinded, and recent incidents have shown a failure for long arms to be included in firearm sales laws.

9.32.015 – Prohibition on Weapons in Certain Areas of Public Interest Pursuant to Adopted State Statutes

In order to protect the public, public welfare, the right to lawful peaceable assembly, and good governance, pursuant to RCW 9.41.290, the following State Statutes are adopted as they currently exist, or are thereafter amended, along with their applicable definitions and penalties:

A. RCW 9.41.280, prohibiting weapons upon public or private elementary or secondary school premises, school-provided transportation, areas of facilities while being used exclusively by public or private schools, or areas of facilities while being used for official meetings of a school district board of directors;

B. RCW 9.41.282, prohibiting weapons upon licensed childcare center premises, child care center-provided transportation, or areas of facilities while being used exclusively by a child care center;

C. RCW 9.41.300, prohibiting weapons within those areas of any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices, and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings

D. RCW 9.41.305, prohibiting weapons upon the posting of proper signage, prohibiting weapons in any municipal buildings used in connection with meetings of the governing body of the city, or any location of a public meeting or hearing of the governing body of the city during the hearing or meeting; and

E. RCW 70.108.150, prohibiting firearms upon the site of an outdoor music festival.

~~9.32.130 Sales—Regulations and records.~~

~~A. It is unlawful to sell a pistol in violation of any provisions of RCW 9.41.160.~~

~~B. No pistol shall be sold under any circumstances unless the purchaser is personally known to the seller or presents clear evidence of his identity.~~

~~C. No seller shall deliver a pistol to the purchaser thereof until 72 hours have elapsed from the time of the application for the purchase thereof as provided in this section and, when delivered, the pistol shall be securely wrapped and shall be unloaded.~~

~~D. At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller an application containing his full name, address, occupation, place of birth and the date and hour of the application; and a description of the weapon, including the make, model, caliber and manufacturer's number; and a statement that he has never been convicted in this state or elsewhere of a crime of violence, drug addiction or habitual drunkenness, and is not legally judged to be of~~

~~unsound mind. The seller shall, by the end of the business day, sign and attach his address and deliver the original of such application to the chief of police, and the duplicate duly signed by the seller shall, within seven days, be sent by him with his address to the Director of Licenses of the state; the triplicate he shall retain for six years. The chief of police shall maintain a file containing the original of the application to purchase a pistol.~~

~~E. This section shall not apply to sales at wholesale.~~

[Replaced by new BNM 10.32.130]

9.32.130 – Restrictions on the Sale and Transfers of Firearms.

For the purposes of enforcement, the City adopts the State restrictions and prohibitions on the sale and transfer of firearms, specifically those crimes and infractions existing at the time of adoption, or thereafter amended, along with their applicable definitions and penalties, identified within RCW 9.41.113 and 9.41.115.

Chapter 10 VEHICLES and TRAFFIC

This chapter was last updated in 2021, with regard to the authority of the Chief of Police and Public Works Director to impose temporary restrictions. A question of law has been raised as to whether we are in compliance with RCW 46.55.240 in articulating impound authority and procedures for municipal issues concerning impounding unauthorized, abandoned, or impounded vehicles, and so changes are being proposed to bring us into certain compliance for the entirety of Chapter 10. Further, as the State imposes mandatory fees to be taken out of our infraction penalty amounts, it is suggested we adopt the State schedule for infractions to avoid situations where we may owe the State more money for an infraction than we collect.

10.02 – Civil Impound Authorization, Notices, and State Monetary Penalty Schedule for Infractions

10.02.010 Authority & Written Notice Requirement.

A. Law enforcement officers commissioned by the City of Blaine are authorized to impound vehicles on public right of ways and public property that are in violation of any part of Chapter 10 upon certification the officer had cause to believe, and does believe, that a person has committed an infraction contrary to the provisions of Chapter 10, and subject to the limitations of this Chapter 10.

B. To conduct an impound the Blaine Police must issue a written notice of infraction or citation for a violation under this chapter which can be effected by delivery of the notice or citation to the owner, driver or person in charge of the vehicle, or the conspicuous posting of the parking citation or notice on the vehicle or trailer. This requirement does not apply to impounds

related to criminal investigations or intended to affect or change any requirements involving the taking of property into custody or impound pursuant to a criminal or state licensing violation. This requirement does not apply to emergencies per BMC 10.02.020(D).

10.02.020 Notice Posting Periods

A. Except for violations otherwise specified below, if the vehicle or trailer is again, or continues to be, in violation 24 hours subsequent to the issuance of an infraction or notice, it may be impounded at the direction of any authorized law enforcement officer.

B. In regard to vehicles or trailers parked in violation of disability parking regulations, they may be impounded 30 minutes subsequent to the issuance of an infraction or notice at the direction of any authorized law enforcement officer.

C. In regard to vehicles parked in violation of BMC 10.12.050 regarding fire safety markings and infrastructure, they may be immediately impounded at the direction of any authorized law enforcement officer.

D. In regard to vehicles parked in violation of BMC 10.12.080(B) regarding automobiles, trucks, vehicles, or trailers stored on city streets, they may be impounded 72 hours subsequent to the issuance an infraction or notice at the direction of any authorized law enforcement officer.

E. In the event of a public emergency, such as crime, fire or medical necessity, any vehicle in violation of this chapter may be impounded or moved immediately upon the public need for the space and may be cited after the immediate emergency passes.

F. The owner of any vehicle or trailer impounded under this section shall be responsible for all costs associated with the removal and storage as provided in Chapter 46.55 RCW, herein adopted. These costs shall be in addition to any fines and penalties assessed for the parking violation.

10.02.030 Monetary Penalties – State Statute Regarding Civil Infraction Penalty Classifications and Restitution Adopted.

RCW 7.80.120, as drafted and amended hereafter, is adopted by reference into the Blaine Municipal Code and applicable throughout wherever a class 1, class 2, class 3, or class 4 infraction are explicitly referenced.

10.12.010 Violation – Penalty.

Any person convicted or found to have committed a violation under this section which is a civil infraction shall be punished by a **standard** fine of not less than \$75.00 for each count or incident, **unless otherwise specified**. This standard fine amount **and any otherwise specified fine amounts** may be adjusted by the city as needed in its periodic amendments to its unified fee schedule. Each day that the violation continues to exist shall be treated as a separate count or incident. This **The standard**

penalty shall apply to all violations of this chapter and any parking provisions of the Model Traffic Code adopted by the city, in this or any other section of the Blaine Municipal Code, except where specified otherwise.

~~10.12.015 Violations—Notice.~~

~~Issuance of an infraction for a violation under this chapter can be effected by delivery of the citation to the owner, driver or person in charge of the vehicle, or the conspicuous posting of the parking infraction on the vehicle or trailer.~~

[Replaced by new BNM 10.02.010]

~~10.12.016 Violation—Impound.~~

~~A. Except for violations involving disability parking, fire lanes, fire trucks or fire hydrants, 24 hours subsequent to the issuance of an infraction, if the vehicle or trailer is again, or continues to be, parked in violation of this chapter, it may be impounded by law enforcement.~~

~~B. Vehicles or trailers parked in violation of disability parking regulations may be impounded at the direction of any law enforcement officer empowered to enforce this section 30 minutes subsequent to the issuance of an infraction.~~

~~C. Vehicles parked in violation of BMC 10.12.050 regarding fire safety markings and infrastructure may be immediately impounded at the direction of any law enforcement officer empowered to enforce this section.~~

~~D. In the event of a public emergency, such as crime, fire or medical necessity, any vehicle in violation of this chapter may be impounded or moved immediately upon the public need for the space, and may be cited after the immediate emergency passes.~~

~~E. The owner of any vehicle or trailer impounded under this section shall be responsible for all costs associated with the removal and storage as provided in Chapter 46.55 RCW, herein adopted. These costs shall be in addition to any fines and penalties assessed for the parking violation.~~

[Replaced by new BNM 10.02.020]

~~10.13.120 Issuance of notice of infraction.~~

~~Law enforcement officers commissioned by the city of Blaine are authorized to issue a notice of infraction upon certification the officer had cause to believe, and does believe, that a person has committed an infraction contrary to the provisions of this chapter. The infraction need not have been committed in the issuing officer's presence except as otherwise provided by law.~~

[Replaced by new BNM 10.02.010]