

VILLAGE OF BOSTON HEIGHTS	Codified?	First Reading <u> X </u>	Waiver 3-Reading Rule _____
ORDINANCE NO: 2018-9-7	Yes <u> X </u>	Second Reading _____	Yes <u> X </u>
INTRODUCED BY <u> H. DAVIS </u>	No _____	Third Reading _____	No _____

**AN ORDINANCE TO AMEND THE TRAFFIC CODE TO REFLECT NEW REVISED
CODE PROVISIONS ABOUT DISTRACTED DRIVING,
AND DECLARING AN EMERGENCY**

WHEREAS, the General Assembly amended the Revised Code to create a penalty enhancement when drivers violate traffic laws because they are distracted; and

WHEREAS, it is in the best interests of and furthers the public peace, health, safety, and general welfare of the Village residents to amend the Traffic Code to reflect the penalty enhancement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio, as follows:

Section 1: That the following Section 303.991 be enacted:

(A) As used in this section and each section referenced in division (B) of this section, all of the following apply:

(1) "Distracted" means doing either of the following while operating a vehicle:

(a) Using a handheld electronic wireless communications device, as defined in section 4511.204 of the Revised Code, except when utilizing any of the following:

(i) The device's speakerphone function;

(ii) A wireless technology standard for exchanging data over short distances;

(iii) A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;

(iv) Any device that is physically or electronically integrated into the motor vehicle.

(b) Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of section 331.43 of the Traffic Code.

(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals.

As used in division (A)(3) of this section:

(a) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of section 4905.03 of the Revised Code.

(b) "Utility service vehicle" means a vehicle owned or operated by a utility.

(B) If an offender violates section 313.01, 313.09, 331.01, 331.02, 331.03, 331.04, 331.05, 331.06, 331.07, 331.08, 331.09, 331.10, 331.12, 331.13, 331.14, 331.15, 331.16, 331.17, 331.18, 331.19, 331.20, 331.22, 331.23, 331.24, 331.26, 331.27, 331.28, 331.29, 331.30, 331.31, 331.33, 331.37, 331.40(b), 333.03, 333.031, 333.04, 333.05, 371.01, 371.02, 371.07, 373.03, 373.04, 373.07, or 373.11 of the Traffic Code while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding section 303.99 of the Traffic Code, is subject to an additional fine of not more than one hundred dollars as follows:

(1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars. In lieu of payment of the additional fine of one hundred dollars, the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the state director of public safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars, so long as the offender submits to the court both the offender's payment in full and such written evidence.

(2) If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars. If the court imposes upon the offender the applicable penalty for the violation and an additional fine of

not more than one hundred dollars, the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars, the offender instead may elect to attend the distracted driving safety course described in division (B)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars, so long as the offender submits to the court the offender's payment and such written evidence.

Section 2: That the following sections be amended and the stated text be added as a new paragraph to each specified section:

- 313.01 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 303.09 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.01 (e) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.02 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.03 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.04 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.05 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.06 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.

- 331.07 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.08 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.09 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.10 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.12 (e) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.13 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.14 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.15 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 337.16 (e) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.17 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.18 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.

- 331.33 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.37 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 331.40 (b) (2) If the offender commits the offense in this subsection (b) while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 333.03 (i) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 333.031 (e) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 333.04 (e) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 333.05 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 371.01 (f) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 371.02 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 371.07 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 373.03 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.

- 373.04 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 373.07 (d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.
- 373.11 (c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.991 of the Traffic Code.

Section 3: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the Village's residents, for the immediate implementation of these rules, and provided this Ordinance receives the affirmative vote of the members elected or appointed to Council, it shall take effect and be enforced immediately upon its passage and approval by the Mayor.

PASSED:



BILL GONCY, MAYOR

ATTEST:



BETTY KLINGENBERG, FISCAL OFFICER

I, Betty Klingenberg, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing **Ordinance 2018-9-7** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this **25th day of September, 2018.**