

Boyce Town Code

TITLE I: GENERAL PROVISIONS

CHAPTER

10. GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “code,” for which designation “code of ordinances,” or “codified ordinances” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(C) The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the Town of Boyce, Virginia, 2004,” and may be so cited. Such ordinances may also be cited as “Boyce Code” or “Code”.

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(1) *Acts by assistants.* When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(2) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(3) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

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§ 10.04 CAPTIONS.

(A) Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(B) The headlines of the several sections of this Code are intended as mere catch-words to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part thereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the headlines, are amended or re-enacted.

(Code of Virginia § 1-13.9)

§ 10.05 DEFINITIONS, RULES OF CONSTRUCTION

(A) In the interpretation and construction of this Code and of all ordinances and resolutions of the Town, the following rules of construction and definitions shall be observed, unless they are inconsistent with the manifest intent of the Town Council or unless the context clearly requires otherwise, Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Clarke County Board of Supervisors

BOND. When a bond is required, an undertaking in writing with such surety, if any, as the Town Council may direct shall be sufficient.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This code as modified by amendment, revision, and adoption of new titles, chapters, or sections. The words “Code of Virginia” shall mean the Code of Virginia (1950), as amended.

TOWN COUNCIL. The word “Town Council” shall mean the Common Council of the Town of Boyce, Virginia.

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that day shall be excluded.

(Code of Virginia § 1-13.3)

COUNTY. The word “County” shall mean the County of Clarke in the State of Virginia.

FIRE COMPANY. The words “Fire Company” shall mean the Boyce Volunteer Fire Company, Inc.

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GENDER. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males.

HEALTH OFFICER. The term “health officer” shall be taken to mean the director of public health of Clarke County or his authorized representative.

IN THE TOWN. The words “in the Town” shall mean any territorial jurisdiction of which for the exercise of its regulatory power has been conferred on the Town of Boyce by public or private law.

LOCAL GOVERNMENT. The local government adopting this code of ordinances i.e. the Town of Boyce.

LOCALITY. The area within the boundaries of the locality (Town of Boyce) as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term when used in this code may also be used to refer to the Town Council of the locality, and its authorized representatives.

MAY. The act referred to is permissive.

MONTH. A calendar month.

NUMBER. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

(Code of Virginia § 1-13.15)

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OCCUPANT OR TENANT. The word “occupant” or “tenant” applied to a building or land, shall mean any person who holds a written or oral lease of, or actually occupies the whole or a part of such building or land, either alone or with others.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this local government unless the context clearly requires otherwise.

OFFICIAL TIME STANDARD. Whenever particular hours are specified in this Code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight savings time, whichever

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may be in current use in the Town.

OWNER. The word “owner”, applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or a part of such building or land.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, co partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

POLICE OFFICER. The words “police officer” shall mean any police officer of the Town, including the Town Sergeant.

PRECEDING or FOLLOWING. Next before or next after, respectively.

PROPERTY. The word “property” shall mean real, personal, or mixed property.

PUBLIC GROUNDS. The words “public grounds” shall mean parks and all public lands owned by the Town.

SHALL. The act referred to is mandatory.

SIDEWALK. The word “sidewalk” shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line.

SIGNATURE, SUBSCRIPTION. The words “signature” and “subscription” shall include a mark when the person cannot write his name being written near it, and being witnessed by a person who writes his own name as a witness.

STATE. The Commonwealth of Virginia.

STREET. The word “street” shall include highways, road, alleys, lands, bridges, and the approaches thereto, and all other public thoroughfares in the Town, and shall mean the entire width thereof between abutting property lines. It shall be construed to include a sidewalk, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Town Council.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

SWEAR, SWORN. The word “swear” or “sworn” shall be equivalent to the word

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“affirm” or “affirmed” in all cases in which by law an affirmation may be substituted for an oath.

TOWN. The word “Town” shall mean the Town of Boyce, in the County of Clarke and State of Virginia.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

(A) If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

(B) It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this local government exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent,

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the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.11 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.12 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect upon adoption, unless otherwise expressly provided.

§ 10.13 REPEAL OR MODIFICATION OF ORDINANCE.

(A) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(B) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.14 ORDINANCES THAT AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance that is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text

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of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.15 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force before the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun before the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.16 ADOPTION OF STATUTES AND RULES BY REFERENCE.

(A) It is the intention of the legislative body that, when adopting this Basic Code of Ordinances, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) This section shall not apply to provisions of this Code that impose criminal or traffic penalties which are more excessive than those permitted to be imposed by localities pursuant to State law.

Statutory Reference:

Authority, see Code of Virginia §1-13.39:2

Traffic laws; authority to adopt by reference, see Code of Virginia § 46.2-1313

Penalties for violation of ordinances; see Code of Virginia § 15.2-1429

§ 10.99 GENERAL PENALTY.

(A) Any person who violates any provision of this code or any other ordinance of the locality for which another penalty is not specifically provided, shall, upon conviction, be guilty of a Class 1 misdemeanor, and punished as set forth in division (B)(1) of this section.

(B) Whenever in this code or any other ordinance of the locality or any rule or regulation promulgated by any officer or agency of the locality, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof

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shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

(1) *Class 1 misdemeanor:* By a fine of not more than \$2,500, and by confinement in jail for not more than 12 months, either or both;

(2) *Class 2 misdemeanor:* By a fine of not more than \$1,000, and by confinement in jail for not more than six months, either or both;

(3) *Class 3 misdemeanor:* By a fine of not more than \$500; and

(4) *Class 4 misdemeanor:* By a fine of not more than \$250.

(C) The imposition of any penalty, pursuant to this or any other provision of this Code, shall not prohibit the locality from seeking equitable relief in any court of competent jurisdiction, to enjoin the violation of any provision of this Code or other ordinance of the locality.

(D) Each day any violation of this code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(E) The penalties imposed under this section shall not exceed those penalties prescribed by state law for like offenses.

Statutory reference:

Penalties for violation of ordinances, Code of Virginia, §§ 15.2-1429; 15-2-1432
Penalties for misdemeanors, Code of Virginia § 18.2-11