

Boyce Town Code

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: HEALTH AND SAFETY

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GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Includes, but is not limited to, dangerous or unhealthy substances which

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have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public.

RESPONSIBLE PARTY. Includes, but is not limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Code of Virginia § 15.2-900)

NUISANCES

§ 90.10 ABATEMENT; RECOVERY OF COSTS.

In addition to the remedy provided by Code of Virginia § 48-5 and any other remedy provided by law, the locality may maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the locality may abate, raze, or remove such public nuisance, and the locality may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

(A) *Notice To Abate Nuisance.* Whenever the Town Council determines the existence of a nuisance such as is covered by Section 15.2-900 of the Code of Virginia, the Mayor shall cause to be served upon the owner of the property or premises affected by the provisions of the said Section a written notice to abate the nuisance. If the owner is not a resident of the Town, or the County of Clarke, such notice shall be mailed to the last known address of the owner, and fifteen days allowed for a reply. If there is more than one owner, such notice shall be served or mailed to at least one of such owners. If the identity of the owner is not known, such notice shall be given by publication at least once a week for four successive weeks in a newspaper having general circulation in the Town. If the nuisance is not abated within ten days from the date of the service of the notice (twenty-five days from the date of the mailing where service is by mail, or ten days from the date of the fourth weekly newspaper insertion where service is by publication) the Town shall proceed forthwith to abate the nuisance, and charge the property affected in any manner provided by law for the collection of Town taxes.

(B) *Abatement Without Notice.* The provisions concerning notice as provided in Section (A) above shall not apply if, in the opinion of the Town Council, the nuisance is such that immediate action is necessary for protection of the public. The Town shall cause the same to be abated at once, without notice, and charge and collect the cost thereof from the owner or owners of the property affected in any manner

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provided by law for the collection of Town taxes.

(Code of Virginia § 15.2-900)

§ 90.11 WEEDS AND TRASH; REMOVAL OF.

(A) The owners of property shall, within ten days of violation, remove there from any and all trash, garbage, refuse, litter and other substances that might endanger the health or safety of other residents of the locality. If the Town Council deems it necessary, after reasonable notice, it may have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected.

(B) Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.

(C) The owners of vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time or times as the Town Council shall prescribe. If the Town Council deems it necessary, after reasonable notice as determined by the locality, the Town Council may have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

(D) *Throwing Or Dumping Of Refuse On A Sidewalk Or On A Street Or On A Private Premises.*

(1) The word "refuse" as used in this section shall include ashes, bottles, cans, garbage, grass cuttings, paper, magazines, shrubbery cuttings, tree cuttings, weeds, and trash of all sorts.

(2) It shall be unlawful for any person to throw or dump refuse onto any sidewalk or street, or on public grounds, or on private property without written consent of the owner of such property.

(3) When any person is arrested for a violation of this section, and the refuse is alleged to have been thrown or dumped from a motor vehicle, the arresting officer may comply with the provisions of the code of Virginia in making such arrest.

(4) When a violation of the provisions of this section has been observed by any person, and the refuse was thrown or dumped from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person who threw or dumped such refuse; provided, however, that such presumption shall be refutable by

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competent evidence.

(5) The owner or occupant of any premises shall remove refuse which might endanger the health of residents of the Town from such premises at intervals to be designated by the Town Council. Reasonable notice of the date fixed by the Town Council for the removal of such refuse shall be given by newspaper publication, or by mail delivery of a written notice to the owner or occupant. Upon the failure of the owner or occupant to remove such refuse, as provided in such notice, the Mayor may have such refuse removed, and bill the owner for the work. Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner, and collected as taxes are collected.

(E) *Cutting And Removal Of Weeds And Other Foreign Growth From Vacant Lots.* The owner of every vacant lot shall cut and remove weeds and other foreign growth from such lot at intervals to be designated by the Town Council. Reasonable notice of the date fixed by the Town Council for the cutting and removal of such weeds and other foreign growth shall be given by newspaper publication, or by mail or delivery of a written notice to the owner. Upon the failure of the owner to cut and remove such weeds and other foreign growth, as provided in such notice, the Mayor may have such weeds and other foreign growth cut and removed, and bills the owner for the work. Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner, and collected as taxes are collected.

(F) *Receptacles Required.* All garbage shall be places in plastic bags or trash cans/containers. Small tree cuttings may be accepted if bundled.

(G) *Refuse Not Acceptable And Excluded.*

(1) It shall be unlawful to place in any container or bundle any hazardous material, building waste, or automobile parts (including tires), and items of this sort that will not be collected by the Town. Hazardous materials are defined as cleaning fluids, gasoline, crank case oil, paints, plastics, rubber, or other highly inflammable material, or substances such as poisons, caustics, explosives or other like material.

(2) It shall be unlawful to place in any such container or compacted bundle any refuse that was not accumulated in the Town.

(H) *Time Of And Placing For Collection.* All refuse to be collected shall be placed in its respective container or bundles on the curb or other approved place of collection, no earlier than 3:00 PM on the day before the day of collection. It shall be unlawful for any person to place such containers or bundles on the curb or other approved place of collection at any other time. No agent or employee of the Town shall enter any building or upon any private premises for the removal of refuse.

(I) *Days Of Collection.* Refuse shall normally be collected every week. One day each year will be designated as Spring Clean Up Day and may allow collection of additional items not collected on regular weekly pick up days.

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(Code of Virginia § 15.2-901) Penalty, see § 10.99

§ 90.12 DILAPIDATED BUILDINGS.

(A) The owners of property therein, within 30 days after notice, shall remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the locality.

(B) (1) The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of such locality, if the owner and lien holder of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the building, wall or other structure.

(2) For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.

(3) For purposes of this section, reasonable notice includes a written notice:

(a) Mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner; and

(b) Published once a week for two successive weeks in a newspaper having general circulation in the locality.

(4) No action shall be taken by the locality to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return of the receipt or newspaper publication.

(C) In the event the locality, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected.

(D) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia § 58.1-3940 et seq. and § 58.1-3965 et seq. The locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(Code of Virginia § 15.2-906) Penalty, see § 10.99

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§ 90.13 INOPERABLE MOTOR VEHICLES. (Amended January 8, 2008)

(A) It shall be unlawful for any person to keep within the Town, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100 of the Code of Virginia, which is inoperable. One (1) inoperable motor vehicle may be kept by any such person outside of a fully enclosed building or structure, if it is shielded or screened from view by an automobile cover. As used in this section, an “inoperable motor vehicle” means any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

(B) It is hereby further provided that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the Town Council prescribes, remove any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure, or screened from view with an automobile cover; (ii) the Town, through its own zoning officials, agents or employees, may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so; (iii) in the event the Town, through its own zoning officials, agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, the Town may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the Town as taxes are collected; and (v) every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the Town. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he or she is actively restoring or repairing the vehicle, and it is shielded or screened from view by a cover, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view by a cover and being used for the restoration or repair may remain on the property.

(C) Violations of this section shall be subject to a civil penalty, which shall be imposed in accordance with the provisions of § 15.2-2209 of the Code of Virginia as follows: the penalty for any one violation shall be a civil penalty of \$100.00 in connection with an initial summons and \$250.00 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.00. In the event three civil penalties have previously been

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imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period, such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

(D) As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property line on which the subject vehicle is located.

(E) As used in this section, notwithstanding any other provision of law, general or special, an automobile cover means a device that is constructed for the purpose for which it is being used, and that which covers the vehicle completely so that no part of the vehicle is visible, and that which contains attachment provisions to withstand windstorms of average intensity.

(Code of Virginia § 15.2-904 and § 15.2-2209) Penalty, see § 10.99

Cross-reference: Motor vehicles and traffic, see Title VII of this Code

§90.14 OPEN BURNING (Amended January 8, 2008)

(A) General: The purpose of this ordinance is to protect public health, safety, and welfare by regulating open burning within the Town of Boyce to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This ordinance is intended to supplement the applicable regulations promulgated by the State Air Pollution Control Board and other applicable regulations and laws.

(B) Definitions:

For the purpose of this article and subsequent amendments or any orders issued by the Town of Boyce, the words or phrases shall have the meaning given them in this section.

(1) "Built-up area" means any area with a substantial portion covered by industrial, commercial or residential buildings.

(2) "Clean burning waste" means waste that is not prohibited to be burned under this ordinance and that consists only of (i) 100% wood waste, (ii) 100% clean lumber or clean wood, (iii) 100% yard waste, or (iv) 100% mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.

(3) "Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(4) "Clean wood" means uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, by-products of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips,

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edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated.

(5) "Construction waste" means solid waste that is produced or generated during construction remodeling, or repair of pavements, houses, commercial buildings and other structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.

(6) "Debris waste" means wastes resulting from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

(7) "Demolition waste" means that solid waste which is produced by the destruction of structures, or their foundations, or both, and includes the same materials as construction waste.

(8) "Garbage" means readily discarded materials composed of animal, vegetable or other organic matter.

(9) "Hazardous waste" means a "hazardous waste" as described in 9 VAC 20-60, Hazardous Waste Management Regulations.

(10) "Household waste" means any waste material, including garbage, trash and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) which is regulated by state agencies.

(11) "Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(12) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

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(13) "Open burning" means the combustion of solid waste without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of the combustion products' emission.

(14) "Open pit incinerator" means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion byproducts emitted into the atmosphere. The term also includes trench burners, air curtain incinerators and over draft incinerators.

(15) "Refuse" means all solid waste products having the characteristics of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination or other discarded materials.

(16) "Smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

(17) "Special incineration device" means an open pit incinerator, conical or teepee burner, or any other device specifically designed to provide good combustion performance.

(18) "Wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

(a) Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

(b) Construction, renovation, or demolition wastes.

(c) Clean lumber.

(19) "Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail,

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institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

(C). Prohibitions on open burning.

(1) No owner or other person shall cause or permit open burning or the use of a special incineration device for the destruction of refuse except as provided in this ordinance.

(2) No owner or other person shall cause or permit open burning or the use of a special incineration device for the destruction of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

(3) No owner or other person shall cause or permit open burning or the use of a special incineration device for the destruction of hazardous waste or containers for such materials.

(4) No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the destruction of commercial/industrial waste.

(5) Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries that may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

(6) Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in 9 VAC 5 Chapter 70 (9 VAC 5-70) or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

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(D). Exemptions. The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

(1) Open burning for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel;

(2) Open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;

(3) Open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;

(4) Open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and

(E). Permissible open burning.

(1) Open burning is permitted on-site for the destruction of leaves and tree, yard and garden trimmings located on the premises of private property, provided that the conditions are met:

(a) The burning takes place on the premises of the private property; (and)

(b) The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted

(c) Notification is provided by the owner of the parcel (or his/her agent) containing the site of the fire to the Clarke County Operations center (955-1234) that burning is about to take place.

(2) Open burning is permitted on-site for destruction of debris waste resulting from property maintenance, buildings or building areas, or from any other clearing operations that may be approved by the Town of Boyce, provided the following conditions are met:

(a) All reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the Town of Boyce;

(b) The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;

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(c) The burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;

(d) The burning shall be conducted at the greatest distance practicable from highways and air fields,

(e) The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;

(f) The burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and

(g) The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

(h) Notification is provided by the owner of the parcel (or his/her agent) containing the site of the fire to the Clarke County Operations Center (955-1234) that burning is about to take place.

(4) Open burning in devices such as "Salamanders" or other devices providing good combustion may be used for heating by construction or other workers. Workers may also burn clean burning waste, not to include construction or demolition waste, in a metal barrel for warmth provided the barrel has a mesh screen of not greater than ¾ inches so affixed and maintained so as to prevent the exit of sparks; provided that no fire shall be built within 20 feet of any building, fence, or other structure, nor left unattended. Burning for warmth of construction workers may only be done provided no smoke violation or other nuisance is created.

(5) Sections E, 1 through 4. notwithstanding, no owner or other person shall cause or permit open burning or the use of a special incineration device during May, June, July, August, or September. or as otherwise restricted by State Air Pollution Control Board.

(F). Permits.

(1) When open burning is to occur within the Town of Boyce the person responsible for the burning shall obtain a permit from the Town Clerk prior to the burning. Such a permit may be granted only after confirmation by the Town Clerk that the burning can and will comply with the provisions of this ordinance and any other conditions that are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by (designated local official).

(2) Prior to the initial installation (or reinstallation, in cases of

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relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the Town Clerk, such permits to be granted only after confirmation that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met that are deemed necessary to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall apply the following conditions:

(a) All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, saw logs and firewood.

(b) The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material.

(c) The burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If (designated local official) determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased.

(d) The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.

(e) The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

(f) The use of special incineration devices shall be allowed only for the destruction of debris waste, clean burning construction waste, and clean burning demolition waste.

(g) Permits issued under this subsection shall be limited to a specific period of time deemed appropriate by the Town Clerk

Penalties , *see § 10.99 for a class 4 misdemeanor*

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Town of Boyce

Open Burning Permit

Date: _____

Requested By: _____

Address & Location of Open Burning: _____

Date/Time of Open Burning: _____

Notification was provided to the following adjoining property owners:

Name & Address _____

Name & Address _____

I have read, understand, and will comply with Boyce Town Code, Section 90.14, concerning Open Burning. I accept full responsibility for safe burning and further acknowledge and accept any liability for property or personal damages that may result from the proposed Open Burning.

Signature of Applicant

Signature of Town Clerk

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§90.15 REMOVAL OF SNOW AND ICE FROM SIDEWALKS

(A) The owner or occupant or any person having the care of any building or lot of land abutting on any paved sidewalk within the corporate limits of the town shall, within the first eight (8) hours of daylight following the time any snow, ice or sleet has ceased to fall, cause the same to be removed from such sidewalk; provided, that sleet or ice, when it cannot be removed without injury to the pavement of the sidewalk, shall be covered within the same period of time with sawdust, ashes or some other environmentally friendly material which will render the sidewalk safe for pedestrian travel.

(B) Where conditions set forth in subsection (A) above are not complied with, and the street on which the property is located has been plowed by the town or its agents, the Mayor or his designee shall immediately notify the owner or occupant, and such notification shall be served by the Enforcement Official or Town Clerk.

(C) If the conditions set forth in subsections (A) and (B) above are not complied with within twenty-four (24) hours from the time of the notification, the Mayor or Enforcement Official may cause the owner or occupant to be charged with a violation of this section.

(D) If after twenty-four (24) hours from the time of notice provided in subsection (B) the conditions set forth in subsection (A) are not complied with and the owner or occupant has been charged with a violation pursuant to subsection (C) above, the town may cause the conditions to be complied with. The cost thereof shall be charged to and collected from the owner of the property affected in any container provided by law for the collection of state and local taxes.

Penalty, see § 10.99 for a class 4 misdemeanor

§90.16 SNOW OR ICE NOT TO BE DEPOSITED ON STREETS OR SIDEWALKS

It shall be unlawful for the owner, occupant or any person having the care of any building or lot of land abutting on any street within the town, or any other person acting as an agent of the owner or occupant of any such building or lot, to shovel, plow or deposit any snow, ice or sleet on any paved sidewalk or in the traffic lanes or travel way of any street, as such traffic lanes or travel ways have been cleared of snow, ice or sleet by agents of the town, within the corporate limits of the town.

Penalty, see § 10.99 for a class 4 misdemeanor

§ 90.20 STATEWIDE FIRE PREVENTION CODE.

The Statewide Fire Prevention Code promulgated under Code of Virginia § 27.97 shall be in full force and effect in the locality, and shall be enforced by the State Fire Marshal. A copy of the Statewide Fire Prevention Code shall be available for public

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inspection at the locality's office during normal business hours.

Penalty, see § 10.99

§ 90.21 OBSTRUCTING A FIRE HYDRANT

It shall be unlawful for any person to place any obstruction within fifteen feet of any fire hydrant or plug, or to obstruct the sight of the same by hitching horses or other animals, placing building material, boxes, cans, or in any manner, whatsoever obstructing the sight, the easy approach to, or the convenient use of the same by the Fire Company.

§ 90.30 YARD SALES

§ 90.31 DEFINITIONS

(A) As used in this section, the term "yard sale" shall include the sale of personal property from a residential premises, whether advertised in local media, by signs, or otherwise as a yard sale, barn sale, garage sale, household sale, or moving sale, whether accomplished by direct sale or auction; or the sale, at the seller's place of residence, of all or part of the household goods, whether accomplished by direct sale or auction, or sales conducted by civic groups, school groups, church groups, charitable or fraternal organizations and other non-profit organizations if such sale is held on the organization's premises within the Town of Boyce.

(B) "Personal property" shall mean property, which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise, which was purchased for resale or obtained on consignment.

§ 90.32 PERMIT REQUIREMENTS

(A) No person shall conduct a yard sale within the Town, or offer any goods, wares, merchandise, or any other property capable of being the object of a sale at a yard sale, unless he or she has a permit to do so issued by the Town Clerk. Application for such permits shall be made on forms provided for that purpose by the Town Clerk.

(B) No permit issued under this section shall be transferable.

(C) There shall be no charge for a permit.

§ 90.33 SALE CONDITIONS

(A) There shall be a limit of two (2) yard sales authorized per calendar year per property address.

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- (B) Yard sales shall not be conducted longer than two (2) consecutive days.
- (C) Yard sales shall be limited to the hours of 8:00 AM to 6:00 PM.
- (D) The individual to whom a permit is issued and the owner/tenant of the premises are responsible for maintaining order. The yard sale event shall not obstruct the flow of traffic on a public street.
- (E) Items to be sold shall not be displayed for sale more than two (2) hours prior to the advertised start time of the yard sale or 6:00 AM, whichever is later. Within two (2) hours after the conclusion of the yard sale or no later than 8:00 PM of the final day, whichever is earlier, all unsold items shall be removed from view, disposed of, or stored in a completely enclosed structure.

§ 90.34 SIGNAGE

- (A) Two (2) signs of not more than four (4) square feet may be displayed on the property of the residence or nonresidential site where the garage sale or yard sale is being conducted.

§ 90.35 OUTSIDE STORAGE IN RESIDENTIAL AREAS OR AREAS ZONED RESIDENTIAL – EFFECTIVE AUGUST 5, 2008

(A) Nuisance Prohibited: Outside storage in Residential Areas and Areas Zoned Residential in violation of this section is deemed to be a nuisance which may create a hazard to the health or safety of individuals or the public. It is also deemed to be conducive to rodent or insect infestation, a fire hazard and to contribute to conditions that cause blight and property degradation. No owner, occupier or possessor of property in a Residential Area or Areas Zoned Residential shall permit outside storage in violation of this section.

(B) Outside Storage Areas: For the purpose of this ordinance, “outside” includes yards, driveways, patios, decks, and porches in Residential Areas or Areas Zoned Residential in the Town of Boyce. Outside storage in such areas is prohibited in open or unenclosed structures. Outside storage shall be permitted in structures provided such structures are fully enclosed, permanently located on the ground, or positioned in a rear or side yard.

(C) Prohibited Items: The prohibition of outside storage extends to and applies to any items, goods, material or equipment that are not ordinarily associated with the permitted uses of a Residential Area or Areas Zoned Residential, including, by way of example only, and not limited to, the following items:

White Goods - Appliances or appliance parts not specifically designed and manufactured for outdoor use;

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Machinery – Worn out, wrecked, abandoned, or inoperable machinery such as tractors, lawnmowers, bicycles or white goods of any kind or any parts thereof;

Vehicle Parts and Tires - Any vehicle parts or tires, with or without rims.

Indoor Upholstered Furniture

Firewood – Except when it is evenly piled or stacked on open racks constructed in a manner that will support the loads imposed;

Large Limbs -Except while in the process of being cut and properly stacked for use as firewood and then such outside storage shall not exceed thirty (30) calendar days.

Portable Toilets - Except when they are being utilized as part of a permitted construction project.

Construction Material - Except when located on a permitted construction site and stored in a manner to protect its utility and prevent deterioration until used during the construction process.

(D) Penalty for Noncompliance: If, after thirty (30) days written notice mailed or notice personally delivered, the owner or owners, occupant or occupants or possessor or possessors of the property or premises affected by this section shall fail to abate or obviate the nuisance, the Town of Boyce may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants, or possessor or possessors of the property affected in any manner provided by law for the collection of state or local taxes.

Every charge in excess of \$200.00 which has been assessed against the owner of such property and which remains unpaid shall constitute a lien against such property as provided by § 15.2-1115, B., Code of Virginia, 1950, as amended.

State Law References – General Authority of Town to abate and remove nuisances § 15.2-900 and § 15.2-1115, Code of Virginia, 1950, as amended.

CHAPTER 91: PUBLIC WORKS AND UTILITIES

Section

Water and Sewers

91.01 Connection mandatory

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91.02 Fees and charges

91.03 Backflow prevention

Solid Waste

91.15 Collection; regulations

Streets and Sidewalks

91.30 Parades and special events

91.31 Posting prohibited

91.32 Opening permit required

91.33 Barriers around excavations

91.34 Unloading on street or sidewalk

91.35 Obstructions

WATER AND SEWERS

§ 91.01 CONNECTION MANDATORY.

Unless otherwise directed by the Town Council, every owner of property that may be served by the water and sewage system of the locality shall cause the building to be connected with the water and sewage system in accordance with procedures established by the Clarke County Sanitation Authority (CCSA).

Penalty, see § 10.99

Statutory reference:

Authority to regulate sewage disposal or water service, see Code of Virginia § 15.2-2111 et seq.

§ 91.02 FEES AND CHARGES.

(A) For sewer service provided by the locality, fees and charges will be charged and collected by CCSA.

(Code of Virginia § 15.2-2119)

§ 91.03 BACKFLOW PREVENTION.

(A) An approved backflow prevention device shall be installed on each service

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line to a consumer's water system where, in the judgment of the CCSA, a health, pollution or system hazard to the waterworks exists, and as a minimum, but not limited to, where the following conditions exist:

- (1) Premises having an auxiliary water system;
- (2) Premises on which any substance is handled in such a manner as to create an actual or potential hazard to a waterworks;
- (3) Premises having internal cross-connections that, in the judgment of the CCSA, may not be easily correctable, or intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist;
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey; or
- (5) Premises having a repeated history of cross-connections being established or re-established.

(B) The CCSA will have available, upon request, a list of approved backflow prevention devices. Devices not appearing on the list will be considered by the locality, provided they have been tested by a recognized testing laboratory or evaluation agency, and are of satisfactory materials.

Penalty, see § 10.99

SOLID WASTE

§ 91.15 COLLECTION; REGULATIONS.

(A) The locality may provide for the collection and disposal of solid waste from residential, commercial, institutional, and governmental premises within the locality.

(B) The locality may adopt additional solid waste regulations, including, but not limited to disposal of garbage and other refuse; regulation and inspection of incinerators, dumps and other places and facilities for the disposal of garbage and other refuse and the manner in which such incinerators, dumps, places and facilities are operated or maintained. Such regulations shall be adopted in accordance with Code of Virginia § 15.2-927 et seq. and other applicable law.

STREETS AND SIDEWALKS

§ 91.30 PARADES AND SPECIAL EVENTS.

(A) No parade or procession of any kind shall be held or conducted in any

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public rights-of-way without first obtaining a permit from the locality.

(B) The Town Council, or its designated agent or employee, may promulgate regulations to govern the time, place and manner of parades or processions, and may establish reasonable fees, charges and rentals for such activities.

Penalty, see § 10.99

§ 91.31 POSTING PROHIBITED.

No person shall post or affix, or cause to be posted or affixed, any bills, flyers, or other material on or to any public property, including but not limited to light poles, walls, and buildings.

Penalty, see § 10.99

§ 91.32 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized official of the locality, to make any opening in any Town street, alley, sidewalk, or public way of the locality unless a permit to make the opening has been obtained before commencement of the work.

Penalty, see § 10.99

§ 91.33 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 10.99

§ 91.34 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material or equipment in or on the streets of the locality by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement Or otherwise protecting Town streets.

Penalty, see § 10.99

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§ 91.35 OBSTRUCTIONS.

(A) No person shall obstruct any street, alley, sidewalk, or other public way within the locality by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

(B) No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see § 10.99

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CHAPTER 92: LEISURE AND RECREATION

Section

Parks

92.01 Authority to establish

92.02 Operation; fees and taxes

92.03 Limitation on liability

PARKS

§ 92.01 AUTHORITY TO ESTABLISH.

The locality may establish parks, recreation facilities and playgrounds; set apart for such use any land or buildings owned or leased by it; and acquire land, buildings and other facilities pursuant to Code of Virginia § 15.2-1800 for the aforesaid purposes.

(Code of Virginia § 15.2-1806)

§ 92.02 OPERATION; FEES AND TAXES.

(A) In regard to its parks, recreation facilities and playgrounds, the locality may:

(1) Fix, prescribe, and provide for the collection of fees for their use;

(2) Levy and collect an annual tax upon all property in the locality subject to local taxation to pay, in whole or in part, the expenses incident to their maintenance and operation;

(3) Operate their use through a department or bureau of recreation or delegate the operation thereof to a recreation board created by it, to a school board, or any other appropriate existing board or commission.

(B) The locality may also establish, conduct and regulate a system of hiking, biking, and horseback riding trails and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it. In furtherance of the purposes of this section, the locality may provide for the protection of persons whose property interests, or personal liability, may be related to or affected by the use of such trails.

(Code of Virginia § 15.2-1806)

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Statutory reference:

Park Authorities Act, see Code of Virginia § 15.2-5700 et seq.

Public Recreational Facilities Authorities Act, see Code of Virginia § 15.2-5600 et seq.

§ 92.03 LIMITATION ON LIABILITY.

In operating any park, recreational facility or playground, the locality shall not be liable in any civil action or proceeding for damages resulting from any injury to the person or from a loss of or damage to the property of any person caused by any act or omission constituting ordinary negligence on the part of any officer or agent of the locality in the maintenance or operation of any such park, recreational facility or playground. The locality shall, however, be liable in damages for the gross negligence of any of its officers or agents in the maintenance or operation of any such park, recreational facility or playground.

(Code of Virginia § 15.2-1809)

CHAPTER 93: ANIMALS

GENERAL PROVISIONS.

All regulations concerning animal regulation, which shall include licenses, are under the jurisdiction of the County.

Statutory reference:

Comprehensive Animal Laws, see Code of Virginia § 3.1-796.66 et seq.

§ 93.01 CERTAIN FOWL AND ANIMALS PROHIBITED

(A) **Fowl:** It shall be unlawful for any person to own, keep or maintain any chicken, goose or other domestic fowl within the corporate limits of the Town.

(B) **Swine:** It shall be unlawful for any person to own, keep or maintain any hog, pig, swine or any other porcine animal within the corporate limits of the Town.

(C) **Other Hoofed Animals:** It shall be unlawful for any person to own or keep any other hoofed animal, such as burro, cow, goat, horse, llama, mule, sheep, or any other bovine or equine animal within the corporate limits of the Town on parcels of less than three acres. Such animals may be maintained on parcels of three acres or more provided

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that the number of such animals does not exceed a total of two adult animals per acre (not including juvenile animals being nursed by permitted animals).

(D) **Exceptions:** The specific prohibitions of animals and fowl listed above are not applicable to the following:

(1) The temporary maintenance or keeping of animals and fowl by a licensed veterinarian in connection with that veterinarian's business, and

(2) The transportation of animals or fowl through the Town when the length of stay in the Town is no longer than 24 hours.

Penalty: Class 3 misdemeanor. See Paragraph 10.99