

Boyce Town Code

TITLE XIII: GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

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§ 130.01 DISCHARGING WEAPONS.

(A) Unless otherwise exempted by federal, state, or local laws, no person shall discharge a weapon within the locality, including, but not limited to, firearms, bows, crossbows, longbows, re-curve bows, or any type of projectile or missile.

(B) The provisions of this section shall not apply to the following:

(1) Persons discharging weapons on their own property;

(2) Persons discharging weapons on another person's property with the consent of the property owner; or

(3) Persons discharging weapons for the killing of deer pursuant to Code of Virginia § 29.1-259, provided that the person is discharging the weapon on land of at least five acres that is zoned for agricultural use.

Penalty, see § 10.99 for a class 4 misdemeanor

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Statutory reference:

Authority to prohibit shooting of bows and the like, see Code of Virginia § 15.2-916

Authority to prohibit shooting air cannons, see Code of Virginia § 15.2-918

Authority to regulate discharge of firearms, see Code of Virginia §§ 15.2-1113, 15.2-1209

§ 130.02 NOISE.

No person shall make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, except as otherwise allowed or exempted by law.

(A) Prohibited Acts Specifically.

The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary or unreasonable period of time.

(2) Radios, phonographs, etc. The using, operating, or permitting to be played, used or operated in residential areas any television, radio receiving set, musical instrument phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of thirty (30) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) Loud speakers, amplifiers and other sound devices for advertising. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention by Town officials.

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(4) Yelling, shouting, etc. Yelling, shouting, whistling or otherwise creating noise on the public streets, particularly between the hours of 10:00 p.m. and 6:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.

(5) Dogs. The keeping of any dog which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) Loading and unloading of vehicles. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(7) Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m., local prevailing time, except in case of urgent necessity in the interest of public health and safety, and then only with permit from the city.

(8) Pile drivers, hammers, heavy equipment, etc. The operation between the hours of 10:00 p.m. and 6:00 a.m. of any pile driver, earth moving equipment, pneumatic hammer, derrick, or other appliance, the use of which is usually attended by loud or unusual noise. Use of this equipment is restricted to Monday through Saturday.

(9) Power lawn mowers. The operation of any power mower, cultivator, or like or related device in an area zoned residential between the hours of 9:00 p.m. and 7:00 a.m.

(B) Exceptions.

The following uses and activities shall be exempt from noise level regulations:

(1) Noises of safety signals, warning devices, and emergency pressure relief valves.

(2) Noises resulting from any authorized emergency vehicle, when responding to an emergency.

(3) Noises resulting from emergency work.

(4) Any other noise resulting from activities of a temporary duration permitted by law for which a license or permit therefore has been granted

(5) E Any aircraft or railroad equipment operated in conformity with, or pursuant to state statute, federal law, federal regulations and traffic control instruction used pursuant to and within the duly adopted state or federal regulations. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt.

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Penalty, see § 10.99 for a class 4 misdemeanor

§ 130.05 OUTDOOR LIGHTING. (Amended January 3, 2006)

(A) For the purpose of this chapter, the following definitions apply:

FIXTURE. The assembly that houses the lamp or lamps and can include all or some of the following parts: housing, mounting bracket, pole socket, lamp holder, ballast, reflector, mirror, or refractor.

SHIELDED/CUTOFF. A fixture constructed or shielded in such a way that all light emitted either directly from the lamp or indirectly from the fixture is projected below the horizontal plane through the fixture's lowest light emitting part as determined by photometric test or certified by the manufacturer.

GLARE. The sensation produced within the visual field that is sufficiently greater than the light to which the eyes are adapted so as to cause annoyance, discomfort, or loss in visual performance and visibility.

LIGHT TRESPASS. The shining of light, produced by a fixture, beyond the boundaries of the property on which it is located.

LUMENS. A quantitative unit measuring the amount of light emitted by a light fixture. For the purposes of this ordinance, the lumen output value shall be the initial lumen output rating of a light fixture. For example, 1,500 lumens is the light produced by a standard bulb of 100 to 125 watts depending on the manufacturer and the materials used.

TEMPORARY OUTDOOR LIGHTING. The specific illumination of an outside area of any object by any man-made device located outdoors that produces light by any means for a period of less than 30 days, with at least 180 days passing before being used again.

UP-LIGHTING. Any light source that distributes illumination above a horizontal plane.

(B) All public and private outdoor lighting installed in the Town of Boyce, with fixtures of more than 1,500 lumens shall be in conformance with the requirements established herein within 30 days of the date of approval of this ordinance, to wit:

(1) All lighting including street lighting shall be fully shielded so as to eliminate up-lighting.

(2) All lighting other than street lighting shall be oriented to avoid light trespass, and shall not cause glare perceptible to persons on adjacent property to include public ways.

(3) All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular lights, shall be exempt from the requirements of this article.

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(4) Temporary outdoor lighting such as holiday lighting, circus, fairs, carnivals or other civic uses and permanent outdoor lighting of the flag of the United States of America shall be exempt from the requirements of this article.

(5) Temporary outdoor construction lighting shall require a permit to be issued by the Town Council.

(Code of Virginia § 15.2-1117)

Penalty, see § 10.99 for a class 4 misdemeanor

§ 130.06 POSTING ADVERTISEMENTS.

No person shall post, place, or attach, or have posted, placed, or attached any advertisement, card, notice, or poster upon or to any building, wall, fence, tree, pole, or other property of another or of the Town, or mark by painting, drawing, branding, or otherwise any property without having first received the permission of the owner of such property. No person shall alter, deface, mutilate, or remove any such advertisement, card, notice, or poster, or any such mark posted or placed upon, attached to, or marked on any such property without the permission of the owner of such property.

§ 130.07 DISTRIBUTION OF HANDBILLS.

No person shall hand out or distribute, or have handed out or distributed in the town any handbills, advertisements, cards, notices, or circulars for nongovernmental activities, without first having secured a permit from the Town Council.

§ 130.11 FAIRS AND CARNIVALS.

It shall be unlawful for a traveling carnival or like form of entertainment to operate in the Town except upon obtaining a permit from the Town Council.

§ 130.14 EXPLOSIVES. (Amended May 2, 2006)

(A) Definition: For the purpose of this ordinance, “explosive” shall be as defined in § 59.1-137, Code of Virginia.

(B) Within the Town of Boyce, the use of explosives is not allowed unless approval is granted by the Town Council. In addition, a Blasting Plan shall be submitted that addresses the potential impact of the proposed blasting activity on the geology within the Town. Use of explosives shall be considered only after a compelling and substantiated case is presented as to why alternatives to explosives will not suffice.

(1) The applicant shall demonstrate that the proposed improvements,

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including construction of buildings, earthwork operations, road construction, utility installation, and storm drainage/storm water management facilities, for which blasting is to occur are located and designed so as to require the least intensive degree of blasting necessary and that it is necessary to remove the rock by blasting rather than use of an alternative method or relocate the development improvements, change elevations, etc.

(2) The applicant shall conduct and submit a geotechnical investigation evaluating the impact of the proposed blasting on the quantity and quality of groundwater recharging Prospect Hill Spring or other private water sources within the Town. The investigation shall include electrical resistivity and/or seismic refraction testing to show the limits, hardness and characteristics of rock, location of voids, groundwater levels, etc. The results of this investigation shall be provided as part of the initial review by the Town Council of the request to use explosives. Test pit evaluation, where improvements are planned, may be required by the Town Council after its initial review and approval.

(C) The Blasting Plan shall include:

(1) A program for a pre-blast survey of existing water quality and quantity and public utilities within the Town.

(2) A blasting schedule identifying the location, size, and time period of blasting activities.

(3) A statement indicating that:

(a) All blasting shall be done by licensed blasters and the contractor shall conform to all federal, state and local laws and regulations regarding transportation, storage, and use of explosives, and

(b) The contractor/applicant shall be fully responsible and liable for all damage incurred to publicly or privately owned facilities as a result of the contractor's/applicant's use of explosives and blasting operations regardless of whether or not the contractor/applicant had complied with such federal, state, or local laws and regulations.

(4) A monitoring plan conducted by an independent third party.

(5) Blasting work shall be performed in the presence of a licensed blaster.

(6) Other requirements that in the opinion of the Town Council ensures protection of the Town's public and private water supply.

(D) The contractor/applicant shall take out and maintain, during the period of blasting operations plus 30 days, special liability and property damage insurance for all personal and property damage incurred a result of the contractor's use of explosives and blasting operations to include the cost of a replacement water source for the Prospect Hill Spring and/or any private well, should that water source fail as a result of the blasting. The Town Council shall approve the coverage and amount of such insurance. No

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explosives shall be delivered to the site until proof of such insurance coverage is delivered to the Town Council. If the coverage or amount of insurance is not deemed sufficient, a special bond covering the blasting operations may be required by the Town Council, and the bond's costs shall be paid by the contractor/applicant. All governmental agencies as required by law, including the Town Council, shall be notified before the period of blasting commences. The contractor/applicant shall pay all expenses associated with their request, to include the Town's costs for professional consultant review of the Blasting Plan.

Penalty, see § 10.99 for a class 1 misdemeanor

§ 130.15 CONSTRUCTION WORK.

(A) No site or construction work shall be performed on Sundays. Other days are limited to work during the hours between 7AM and dusk.

(B) The provisions of this section shall not apply to resident improvement and maintenance projects.

Penalty, see § 10.99 for a class 4 misdemeanor

§ 130.17 ADOPTION OF STATE LAW AS TO DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Pursuant to the authority of § 46.2-1313 and § 18.2-268.12 of the Code of Virginia, 1950 as amended, all of the provisions of the laws of the Commonwealth of Virginia contained in Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, including the section numbers assigned to such provisions in said Article 2, of Chapter 7 of Title 18.2 of the Code of Virginia, and in effect on and after July 1, 2005, are hereby adopted and incorporated into this chapter by reference and made applicable within the Town. Reference to "highways of the state" contained in such provisions and requirements shall be deemed to refer to the streets, highways, and other public ways within the Town. Such provisions and requirements are hereby adopted, *mutatis mutandis*, and made part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the Town to violate or fail, neglect, or refuse to comply with any such provision or requirement, provided, however, that the provisions of § 18.2-270 of the Code of Virginia pertaining to offenses of driving while intoxicated that constitute felonies are not incorporated into or made a part of this section. Pursuant to the authority of § 1-13.39:2 of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this ordinance adopting the foregoing State statutes shall include all future amendments to such state statutes.