

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated as the "Code of Ordinances, Town of South Palm Beach, Florida," and may be so cited.

(Code 1983, § 10.01; Code 1996, § 1-1)

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall be used in the town by all elected and appointed officials, all appointed and elected boards and commissions, employees, outside vendors and consultants, and/or anyone doing business with the town or anyone interpreting its Code.

Abuse means the intentional, wrongful, or improper use of rank, position, or authority by elected and appointed municipal officials and employees designed to cause the loss or misuse of municipal funds or resources, to adversely affect the rights of any person, or to achieve personal gain or advantage for himself or for any other persons.

Acts by agents. When any provision of this Code requires an act to be done by an agent as well as by the principal, the requirement shall be construed to include all acts when done by an authorized agent.

And, or. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

Boards, committees, commissions, officers, employees, departments, etc. Whenever reference is made to a board, committee, commission, officer, employee, department, etc., it shall mean the same as if such reference was followed by the words "of the Town of South Palm Beach, Florida."

Building code administrator and building official. The terms "building code administrator" and "building official" are synonymous.

Charter. The term "Charter" means the Charter of the Town of South Palm Beach, Florida.

Code. The term "Code" means the Code of Ordinances, Town of South Palm Beach, Florida, as designated in section 1-1.

Council or town council. The term "council" or "town council" means the town council of South Palm Beach, Florida.

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which the notice is given or the act is done shall not be counted in computing the time, but the day on which the proceeding is to be had shall be counted. However, if the last day is a Saturday, Sunday or legal holiday, the period of time shall continue to run until the end of the next day that is not a Saturday, Sunday or legal holiday. When the length of time in days is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

State law reference(s)—Computation of time, Florida Rules of Civil Procedure, Rule 1.090 and Rules of Judicial Administration, Rule 2.514.

County. The term "county" means the County of Palm Beach.

State law reference(s)—Boundaries, F.S. § 7.50.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other town officer or town employee to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

~~*Director of public safety and chief of police.* The terms "director of public safety" and "chief of police" are synonymous.~~

F.S. The abbreviation "F.S." means the latest edition of the Florida Statutes.

Fraud. The term "fraud" means to commit an intentional violation of law or a deliberate misrepresentation or concealment so as to secure unfair or unlawful financial or personal gain.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

Joint authority. Words purporting to give joint authority to three or more officers or other persons shall be construed as giving authority to a majority of such officers or persons.

Misconduct. The term "misconduct" means improper conduct (acts or omissions) undertaken with the knowledge that the conduct violates a standard (an identifiable directive, instruction, policy, regulation, rule, statute, or other standard) or undertaken with willful disregard that the conduct violates a standard with the intent to harm or with the purpose of personal profit, advantage or gain.

Mismanagement. The term "mismanagement" means a continuous pattern of management in such a manner as to create or perpetuate waste, abuse or to contribute to acts of fraud. The term "mismanagement" does not include management decisions which are merely debatable, nor does it include action or inaction which is inadvertent, unintentional or insubstantial.

Month. The term "month" means a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Person. The term "person" extends and is applied to associations, clubs, societies, firms, partnerships, and bodies politic and corporate as well as individuals.

Personal property. The term "personal property" includes every species of property except real property.

State. The term "state" or "this state" means the State of Florida.

Tense. Words used in the present or past tense include the future as well as the present and past.

Town. The term "town" means the Town of South Palm Beach, Florida.

Waste. The term "waste" means the extravagant, careless, or needless expenditure of municipal funds or consumption of municipal property that result from deficient practices, systems controls or decisions. The term "waste" does not include management decisions which are merely debatable, nor does it include action or inaction which is inadvertent, unintentional or insubstantial.

(Code 1983, §§ 10.04, 10.05, 10.10; Code 1996, § 1-2; Ord. No. 260, § 1, 8-23-2011)

State law reference(s)—State law definitions, F.S. § 1.01.

Sec. 1-3. Conflicting provisions.

Whenever the regulations and requirements of this chapter are at variance with the requirements of any other lawfully enacted and adopted rules, regulations, ordinances, or laws, the most restrictive shall apply.

(Code 1983, § 155.06; Code 1996, § 1-3)

Sec. 1-4. Headings and captions.

The headings and captions of the sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the titles of the sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the captions, are amended or reenacted.

(Code 1983, § 10.03; Code 1996, § 1-4)

Sec. 1-5. History notes.

The history notes appearing in parentheses after certain sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

(Code 1996, § 1-5)

Sec. 1-6. References and editor's notes.

The references and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

(Code 1996, § 1-6)

Sec. 1-7. Internal references.

Whenever in one section of this Code reference is made to another section of this Code, the 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.

(Code 1983, § 10.07; Code 1996, § 1-7)

Sec. 1-8. Ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:
- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;
 - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligation assumed by the town;
 - (3) Any administrative ordinances or resolutions of the town council not in conflict or inconsistent with the provisions of such Code;
 - (4) Any right or franchise granted by any ordinances of the town;
 - (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the town;

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- (6) Any appropriation ordinance;
 - (7) Any ordinance levying or imposing taxes or adopting an annual budget;
 - (8) Any rezoning ordinance or any land use amendment;
 - (9) Any ordinance establishing streets or prescribing grades for streets in the town;
 - (10) Any ordinance providing for local improvements and making assessments therefor;
 - (11) Any ordinance extending or contracting the boundaries of the town;
 - (12) Any ordinance regulating or restricting traffic or parking on particular streets or in particular places;
 - (13) Any contract or obligation assumed by the town;
 - (14) Any ordinance regulating subdivision of land or dedicating or accepting any plat or subdivision in the town;
 - (15) Any ordinance or resolution establishing or amending personnel rules or regulations;
 - (16) Any ordinance or resolution prescribing any utility or other rates, charges or fees;
 - (17) Any ordinance prescribing any fee or payment of money to the town for licenses or any other fee or tax;
 - (18) Any ordinance prescribing the number, classification, benefits or compensation of any town officers or employees, not inconsistent with this Code;
 - (19) Any ordinance which is temporary although general in effect;
 - (20) Any ordinance which is special although permanent in effect;
 - (21) Any provisions of the former Charter of the town as set out in Laws of Fla., ch. 31276(1955), which are now ordinances by virtue of F.S. § 166.021(4), (5), and which are not in conflict with this Code.

(b) All such ordinances are on file in the town clerk's office.

(Code 1983, §§ 10.13, 10.14; Code 1996, § 1-8)

Sec. 1-9. Repeal of ordinance; effect.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.

(Code 1983, § 10.11; Code 1996, § 1-9)

Const. law reference—Prohibiting bill of attainder, ex post facto law, or any law impairing the obligation of contracts, Fla. Const. art. I, § 10.

Sec. 1-10. Severability.

The sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code is declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

(Code 1983, § 10.06; Code 1996, § 1-10)

Sec. 1-11. Amendments to Code.

- (a) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. In the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or as omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the town council.
- (b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "Section _____ of the Code of Ordinances, Town of South Palm Beach, Florida, is hereby amended to read in its entirety as follows:...." The new provisions may then be set out in full as desired.
- (c) If a new section (or article or chapter) not then existing in the Code is to be added, the following language may be used: "The Code of Ordinances, Town of South Palm Beach, Florida, is hereby amended by adding a section (or article or chapter) to be numbered as follows _____, which section (or article or chapter) shall read in its entirety as follows:...." The new section (or article or chapter) may then be set out in full as desired.
- (d) When the town council desires to enact an ordinance of a general and permanent nature on a subject not then existing in the Code, which the town council desires to incorporate into the Code, a section in substantially the following language may be made a part of the ordinance: "Section _____. It is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of South Palm Beach, Florida, and the sections of this ordinance may be renumbered to accomplish such intention."
- (e) All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section number or chapter number, as the case may be.

(Code 1996, § 1-11)

Sec. 1-12. Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in

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the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 1996, § 1-12)

Sec. 1-13. General penalty; abatement of nuisances; continuing violations.

- (a) The violation of or failure to comply with any provision of this Code shall constitute an offense against the town, and where no specific penalty is provided therefor, shall subject the offender, upon a finding of violation, to a fine of not to exceed \$500.00. This section shall not conflict with any provision for penalties imposed for any offense under the laws of the state. Nothing in this subsection shall be construed to punish town officers or town employees from failure to perform official duties unless it is specifically provided that such failure is to be punished as provided in this section.
- (b) Any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance of the town shall be deemed a public nuisance and shall be subject to abatement by the town.
- (c) Each and every act, action or thing done in violation of the provisions of this Code or any ordinance of the town shall be construed, deemed and taken as a separate and distinct violation of such provisions of this Code, and if any violation of this Code or any of the provisions of this Code shall continue, each day of such continuance shall be deemed, construed and taken as a separate and distinct violation of the provisions of this Code that such condition so allowed to continue shall violate.

(Code 1983, § 10.99; Code 1996, § 1-14)

State law reference(s)—Penalty for ordinance violations, F.S. § 162.22.