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Topic: **Common Law by Dale Pond, Rick Knutson, Howard Fisher and others**
Section: **25.0 - Code Has No Force of Law**

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CODE HAS NO FORCE OF LAW

COMES NOW the Accused, appearing specially and not generally or voluntarily herein, to move the court to dismiss the charges against this Free and Natural Person as the Boise City Code has no force of law over this Accused person.

1. IC 1-701. District courts established.--- The District courts were established in each county for "the purpose of hearing and determining all matters and causes arising under the laws of the state."
2. IC 1-2208 allows the District Court to assign any and all cases within its jurisdiction to the magistrates division for misdemeanor and quasi-criminal actions and proceedings to prevent the commission of crimes.
3. The City of Boise is a municipality, an administrative body, an incorporated town with certain privileges and has no Sovereign powers. The City's privileges are quite limited by its master, the State, and like any artificial being, it must petition its master for any privileges it desires.
4. Since a municipality, city, or town has no sovereignty it cannot create laws pertaining to the citizens of the state. It can only enforce the laws of its master (LAWS OF THE STATE) however, the city can regulate those artificial beings it creates or natural persons it employs.
5. In this case, Boise City Code has no authority of law as the Accused is not an employee of the City nor a created being of the City; nor has he a license, permit, or any other agreement or contract with the City. Therefore, this proposed action is in direct violation of the laws of the state and cannot be enforced against this free and

natural person. It is axiomatic that no municipality can create any code that is in conflict with its creator's law. The Idaho State Constitution states: "Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws." Article 12, Section 2, Idaho State Const.

This has been upheld numerous times by the Idaho Supreme Court and a few of the cases are as follows: "This provision of the Constitution authorizes the council of Boise City to make and enforce ordinances that are not in conflict with the general laws, and forbids the making and enforcing of any ordinance in conflict with the general laws." (emphasis added) *In re Ridenbaugh*, 5 Idaho 371, 375.

"This power, vested by direct grant, is as broad as that vested in the legislature itself, subject to two exceptions: It must be local to the county or municipality and must not conflict with general laws." (emphasis added) *State v. Musser*, 67 Idaho 214, 219.

The Boise City Code is administrative in nature, and only applies to those it regulates or employs. If this city code were construed to apply to persons other than those mentioned, it would violate the rights of other classes of persons and exceed its authority under Article 12, Section 2, of the Idaho State Constitution and IC 50-302 which states in part: "Cities shall make all such ordinances, by laws, rules, regulation (regulations) and resolutions not inconsistent with the laws of the state of Idaho.... to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry."

In this regard, it is only fitting and proper that the Boise City code regulate those whom it controls. IC 50-302 talks about the "welfare of the corporation and its trade, commerce, and industry." There can be no doubt that the Boise City code applies to those artificial entities as well as natural persons hired by the city. However, the City Code cannot be stretched to apply to other persons not within its control (*State v. Musser*) or there exists a conflict between the Idaho Code and the Boise City Code. Or perhaps the City of Boise believes their code supersedes the Idaho Code, and that the Idaho Code does not pertain within its geographical boundaries. Therefore, the City code abrogates the Idaho Code. If so, the City's logic is ad absurdum. In any event, this Court has jurisdiction over the subject matter only so long as the charges being brought before it are authorized by the District Court. The District Court has delegated certain classes of cases to the magistrate court, and any complaint filed under any provisions of the Boise City Code is not within the jurisdiction of the Court. In this case, the Court has no authority to proceed as a complaint based upon a Boise City Code cannot be heard in the District Court, as the District Court only has the power to hear cases pertaining to the laws of the state and the laws of the state are those passed by the legislature not the Boise City Council.

"The legislative power of the state shall be vested in a senate and house of representatives." Article III, Section 1, Idaho State Constitution.

The legislature of this state is the only body that can pass laws of the state. This is further explained under the enabling clause for corporations, municipal. "The legislature shall provide by general laws for the incorporation, organization and classification....which laws may be altered.... by the general laws." (emphasis added) Article XII, Section 1, Idaho State Constitution.

Only the legislature can pass general laws or laws of the state as no where in the Idaho State Constitution did the Sovereign People give any entity, other than the state legislature, the ability to pass laws of the state. Local municipalities.(counties, cities, and towns) were only authorized to make regulations. "Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws." (emphasis added) Article XII, Section 2, Idaho State Constitution. The state legislature is authorized to enact general laws/laws of the state and any other governmental entity or municipality are only authorized to make regulations ---- not enact laws of the state.

Regulations do not have the force and effect of law on all citizens. Regulations only pertain to certain classes of persons. Regulations are defined as: "Such are issued by various governmental departments to carry out the intent of the law." Black's law Dictionary, 5th edition, p. 1156 "Regulations are implementary to existing law." Gibson Wine Co. v. Snyder, 194 F. 2d 329, 331 Regulations then, are things issued to carry out the intent of law but of and by themselves are not law. In short, they can only be considered administrative procedures and edicts.

"Agencies issue regulations to guide the activity of those regulated by the agency and of their own employees and to ensure uniform application of the law." (emphasis added) Black's supra Regulations, within constitutional provisions that municipalities may enforce such local police, sanitary and other regulations as are not in conflict with general laws, refers to rules relating for instance, to operation of a police department,..." (emphasis added) State ex rel. Lynch v. City of Cleveland, 132 N.E. 2d 118, 121 Regulations then, are written to guide a specific agency in its operation, to guide those being regulated by the agency, and to guide the employees of the agency. In the case of the municipality of Boise, their code is to guide in the operation of the corporation, to guide those controlled by the corporation, and to guide the employees of the corporation ---- not the citizenry at large. "Regulations are not the work of the legislature and do not have the effect of law..." Black's supra.

"The terms by-laws, ordinances, and municipal regulations have substantially the same meaning, and are the laws of the corporate district made by the authorized body, in distinction from the general laws of the state. They are local regulations for the government of the inhabitants of the particular place. They are not laws in the legal sense, though binding on the community affected. They are not prescribed by the supreme power of the state, from which alone a law can emanate, and therefore cannot be statutes, which are the written will of the Legislature, expressed in the form necessary to constitute parts of the law." (emphasis added) Rutherford v. Swink, 35 S.W. 554, 555.

"An ordinance of a municipal corporation is a local law, and binds persons within the jurisdiction of the corporation." (emphasis added) *Pittsburgh, C. & St L. Ry. Co. v. Lightheiser*, 71 N.E. 218, 221; *Pennsylvania Co. v. Stegemeier*, 20 N.E. 843.

"An ordinance is a local law, a rule of conduct prospective in its operation, applying to persons and things subject to local jurisdiction." (emphasis added) *C.I.R. v. Schnackenberg*, C.C.A., 90 F. 2d 175, 176.

"Ordinances...are laws passed by the governing body of a municipal corporation for the regulation of the corporation." (emphasis added) *Bills v. City of Goshen*, 20 N.E. 115, 117.

"The terms ordinance, by-law, and municipal regulation...are local regulations for the government of the inhabitants of a particular place, and though given the force of law by the charter for the purposes of the municipal government, yet relate to that solely, and prosecutions for their violation have no reference, as a general rule to the administration of criminal justice of the state." (emphasis added) *State v. Lee*, 13 N.W. 913.

"Ordinances are laws of municipality made by authorized municipal body in distinction from general laws of the state and constitute local regulations for government of inhabitants of particular place." (emphasis added) *State v. Thomas*, 156 N.W. 2d 745.

"...defining the term criminal offense as any offense for which any punishment by imprisonment or fine, or both, may by law be inflicted, a violation of a city ordinance is not a criminal offense...an ordinance being a regulation adopted by a municipal corporation and not a law in the legal sense." (emphasis added) *Meredith v. Whillock*, 158 S.W. 1061, 1062.

"A city ordinance is not a law of the same character as a statute. It is merely a regulation; a rule of conduct passed by the common council for the direction and supervision of its citizens." (emphasis added) *People v. Gardner*, 106 N.W. 541, 545.

"An ordinance prescribes a permanent rule for conduct of government." (emphasis added) 76 N.W. 2d 1, 5; 61 A.L.R. 2d 583.

"An ordinance is not, in the constitutional sense, a public law. It is a mere local rule or by-law, a police or domestic regulation, devoid in many respects of the characteristics of the public or general laws." (emphasis added) *State v. Fourcade*, 13 So. 187, 191; *McInerney v. City of Denver*, 29 P. 516.

Since regulations are the work of a corporation, they can only apply to members of that corporation. From IC 50-302 we know that the City of Boise can only make regulations: "to maintain the peace, good government and welfare of the corporation

and its trade, commerce and industry." IC 50-302 does not even mention persons either natural or artificial but it does specifically mention the corporation and its trade, commerce, and industry. Trade commerce and industry are all artificial entities and either licensed by the state and city or are corporations both of which have an agreement with the state or city and through that agreement, those businesses must adhere to the Boise City Code. However, Natural citizens who are not engaged in trade, commerce, or industry and do not have any agreements with their state or city, cannot be bound by the Boise City Code. The Boise city code is not the law of the State and, this Court has no jurisdiction to proceed. Therefore, if the Plaintiff wishes to proceed in this case with charges brought about based upon the Boise City Code, this case will have to be dismissed and a new action brought before a court of proper jurisdiction. Since this natural person is not a member of the municipal corporation; nor licensed by, nor has any other legal connection with the city; and since the City has no courts, there is no proper court of jurisdiction to hear an action against this Accused natural citizen under the provisions of the Boise City Code.

Free and natural citizens are only subject to the Idaho Code, as stated in IC 19-301, and said Code states, in part: "Every person is liable to punishment by the laws of this state..." The Accused may be subject to the laws of the State under the provisions of this Code, but nowhere does this Code charge the Accused, or any other person, to be liable to punishment by the code of the City of Boise. Laws of this state are those brought into being by the legislature of the state of Idaho, not by an administrative municipality, town, or city. The courts have often said that the state of the law in Idaho is the Idaho Code. The Idaho Code is very specific in what laws a person is liable to, that being laws of the state, not laws of the municipality. This Court may have jurisdiction over those persons who voluntarily submit to the Boise City Code. However, this Court can have no jurisdiction over a free and natural person who challenges the jurisdiction of this Court over a complaint based upon the Boise City Code, and once jurisdiction has been challenged by the Accused, the Court can not proceed until the Plaintiff has not only asserted, but proven jurisdiction. The Plaintiff must overcome every single argument of the Accused and have additional matter, before the Court can have jurisdiction and proceed. In addition, the Court can not assume jurisdiction by mere act or estoppel. It only follows that if a municipality has the authority to create a code, that code can only apply to its subjects or members. As the code pertains to those persons, it may grant them privileges and regulate their actions. However, this free and natural person is not a member, subject, or slave of the municipality and in no way depends upon the City for his welfare, nor is he a corporation, or involved with trade, commerce, or industry (see IC 50-302) with or within the City of Boise, and this person absolutely refuses to enter into any foreign jurisdiction asserted by Boise City for its subjects, employees, and members. I would like to remind the learned court that: "A municipal corporation possesses only such powers as the state confers upon it,.. "Any ambiguity of doubt arising out of the terms used by the legislature must be resolved in favor of the granting power. Regard must also be had to constitutional provisions intended to secure the liberty and to protect the rights of citizens..." (emphasis added) State v. Frederick, 28 Idaho 709, 715.

In this regard, the state legislature must preserve and protect the rights of citizens at all times. The State must maintain legislative power over all citizens throughout the state and therefore the laws of the state are the only laws applicable to natural citizens. "It is settled law, that the legislature in granting it, does not divest itself of any power over the inhabitants of the district which it possessed before the charter was granted. Laramie County v. Albany County et al, 92 U.S. 307, 308.

The City is forbidden from making any regulations or from enforcing any ordinance in conflict with the general laws (re Ridenbaugh, Supra) and the general law (IC 50-302) of Idaho has not granted the city of Boise the power to make laws pertaining to free and natural citizens. It can only make regulations to affect its employees and the trade, commerce and industry it regulates. Therefore, for the above causes, the Accused moves the Court to dismiss the charges.

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