

TOWN *of* BOYCE
V I R G I N I A

ZONING
ORDINANCE

Adopted 5 May 2000

Amendments through 3 May 2011

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1 AUTHORITY, PURPOSES & INTENT, and creation of the Planning Commission

1-A AUTHORITY AND ENACTMENT

This Ordinance, to be cited as the Zoning Ordinance of the Town of Boyce, is hereby ordained, enacted and published by the Town Council of Boyce, pursuant to the provisions of Title 15.2, Chapter 22, Article 7, Code of Virginia, 1950, and amendments thereto.

1-B PURPOSES AND INTENT

- 1-B-1 This Ordinance, insofar as is practicable, is intended to be in accord with and to implement the Comprehensive Plan of the Town of Boyce adopted pursuant to the provisions of Title 15.2, Chapter 22, Article 3, Code of Virginia, 1950, as amended, and has the purposes and intent set forth in Title 15.2, Chapter 22, Article 7.
- 1-B-2 This Ordinance is for the general purpose of promoting the health, safety or general welfare of the public and of accomplishing the objectives of Section 15.2-2200 and Section 15.2-2283 of the Virginia Code. To these ends, this Ordinance is designed:
 - 1-B-2-a To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
 - 1-B-2-b To reduce or prevent congestion in the public streets and roads;
 - 1-B-2-c To facilitate the creation of a convenient, attractive and harmonious community;
 - 1-B-2-d To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements;
 - 1-B-2-e To protect against destruction of, or encroachment upon, historic areas;
 - 1-B-2-f To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers;
 - 1-B-2-g To encourage economic development activities that provide desirable employment and enlarge the tax base;
 - 1-B-2-h To protect and stabilize the rural agricultural, forestal, and open space areas that are essential to maintaining the County's heritage, character and economy;
 - 1-B-2-i To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; and
 - 1-B-2-j To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated.

- 1-B-3 This ordinance may also include reasonable provisions, not inconsistent with applicable State water quality standards, to protect surface water and ground water as defined in the Code of Virginia Section 62.1-255

1-C CREATION OF THE PLANNING COMMISSION

- 1-C-1 The Planning Commission for the Town of Boyce is hereby created to promote the orderly development of the Town and its environs as provided for in Section 15.2-2210 et seq. of the Code of Virginia, as amended. In accomplishing the objectives of Section 1-B of this ordinance, the Planning Commission shall serve primarily in an advisory capacity to the Town Council. Upon the resolution of the Town Council, the Town may participate in a planning district commission in accordance with the Section 15.2-4200 et seq., of the Code of Virginia, as amended, or a joint local commission in accordance with Section 15.2-2219 of the Code of Virginia, as amended.
- 1-C-2 The Planning Commission may cooperate with local planning commissions or legislative and administrative bodies and officials of other localities so as to coordinate planning and development among the localities. The Planning Commission may appoint committees and may adopt rules as needed to effect such cooperation. The Planning Commission may also cooperate with state and federal officials, departments and agencies. The Planning Commission may request from such departments and agencies, and such departments and agencies of the Commonwealth shall furnish, such reasonable information that may affect the planning and development of the locality.
- 1-C-3 The Planning Commission shall consist of not less than five nor more than fifteen members, appointed by the Town Council. Members of the Planning Commission shall be residents of the Town, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the members of the Planning Commission shall be owners of real property. Each member of the commission shall take an oath of office before the Town Clerk to perform their duties to the best of their ability. One member of the commission may be a member of the Town Council, and one member may be a member of the administrative branch of government of the Town. The term of each of these two members shall be coextensive with the term of office to which he or she has been elected or appointed, unless the Town Council, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. The Town Council may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the Town Council. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office. The Town Council may provide for compensation to commission members for their services, reimbursement for actual expenses incurred, or both.
- 1-C-4 A member of the Planning Commission may, with the consent of the Town Council and the Clarke County Board of Supervisors, serve as an advisory member of the Clarke County Planning Commission.
- 1-C-5 The Planning Commission shall fix the time for holding regular meetings. The commission shall meet at least once each year. Special meetings of the commission may be called by the chairman or by two members upon written request to the commission secretary. The secretary shall mail to all members, at least five days in advance of a special meeting, a written notice

fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.

- 1-C-6 A majority of the members shall constitute a quorum and no action of the Planning Commission shall be valid unless authorized by a majority vote of those present and voting.
- 1-C-7 The Town Council shall provide the Planning Commission with facilities for the holding of meetings and the preservation of plans, maps, documents and accounts, and may appropriate funds needed to defray the expenses of the commission.
- 1-C-8 The Planning Commission shall elect from the appointed members a chairman and a vice-chairman, whose terms shall be for one year. As authorized by the Town Council, the commission may (a) create and fill such other offices as it deems necessary; (b) appoint such employees and staff as it deems necessary for its work; and (c) contract with consultants for such services as it requires. The expenditures of the commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the Town Council. The commission shall adopt rules for the transaction of business and shall keep a record of its transactions that shall be a public record. Upon request of the commission, the Town Council may assign or detail to it any members of the town staff for the purpose of special surveys under the direction of the commission. The Town Council may direct any town employee to make for the commission special surveys or studies requested by the local commission.
- 1-C-9 To achieve the purposes and intent this ordinance, the Planning Commission shall:
- a. Exercise general supervision of, and make regulations for, the administration of its affairs;
 - b. Prescribe rules pertaining to its investigations and hearings;
 - c. Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the Town Council;
 - d. Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;
 - e. Make recommendations and an annual report to the Town Council concerning the operation of the commission and the status of planning within its jurisdiction;
 - f. Prepare, publish and distribute reports, ordinances and other material relating to its activities;
 - g. Prepare and submit an annual budget in the manner prescribed by the Town Council; and
 - h. If deemed advisable, establish an advisory committee or committees.
- 1-C-10 The Planning Commission may expend, under regular local procedure as provided by law, sums appropriated to it for its purposes and activities. The Town may accept gifts and donations for commission purposes. Any moneys so accepted shall be deposited with the Town Council in a special non-reverting commission fund to be available for expenditure by the commission for the purpose designated by the donor. The Town Treasurer may issue warrants against such special fund only upon vouchers signed by the chairman and the secretary of the commission.

2 DISTRICTS, ZONING MAP & DISTRICT BOUNDARIES

2-A ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, the Town of Boyce is hereby divided into the following districts:

R -- Residential

B -- Business

2-B OFFICIAL ZONING MAP

2-B-1 General

2-B-1-a The Town of Boyce is hereby divided into districts, as indicated on a map entitled "Zoning Map of the Town of Boyce, Virginia" which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

2-B-1-b The Zoning Map shall be identified by the signature of the Mayor of the Town Council, together with the date of adoption of this Ordinance.

2-B-1-c Regardless of the existence of purported copies of the official Zoning Map, which may from time to time be made or published, the Official Zoning Map, which shall be located in the Office of the Clerk of the Town Council, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.

2-B-2 Amendment of Zoning Map

Whenever any amendment is made to the Zoning Map by action of the Town Council, such change shall be incorporated onto such Zoning Map at such time and in such manner as the Town Council may prescribe. These changes shall be validated with reference to correct notation by the Zoning Administrator, who shall affix his signature thereto, thereby certifying that approved amendments to the Zoning Map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law 12:01 a.m., on the day following its legal adoption, or on its effective date if officially established as other than on the day following its legal adoption, whether or not it has been shown on said Zoning Map.

2-B-3 Unauthorized Changes

No changes of any nature shall be made on said Zoning Map or any matter shown thereon except in conformity with the procedures and requirements of this Ordinance. It shall be unlawful for any person to make unauthorized changes on the Zoning Map. Violations of this provision shall be punishable as provided in Section 10-C.

2-C RULES FOR LOCATION OF DISTRICT BOUNDARIES

2-C-1 General

Where uncertainty exists with respect to the boundary of any district shown on the Zoning Map, the following rules shall apply:

- 2-C-1-a Where a district boundary is indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad tracks, such center lines or lines at right angles to such center lines, as the case may be, shall be construed to be such boundary.
- 2-C-1-b Where a boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the center line at low water, or, if applicable, shall follow the limits of the jurisdiction. If such boundary follows a shoreline, in the event of a change in shoreline, such boundary shall be construed as moving with the actual shoreline.
- 2-C-1-c If no distance, angle, curvature, description, or other means are given to determine a boundary line accurately, and none of the provisions of paragraphs (a) and (b) apply, the location of such boundary line shall be determined by the use of the scale shown on the Zoning Map.
- 2-C-1-d **Unclassified Areas:** Where areas appear to be unclassified on the Zoning Map, and classification cannot be established by rules set forth herein, such areas shall be considered to be classified *Residential* until amending action is taken.
- 2-C-1-e **Boundary Changes with Changes in Jurisdictional Area:**
1. **Additions to Jurisdictional Area**
Where territory is added to the jurisdictional area, it shall be considered to be classified as *Residential* until amending action is taken.
 2. **Reduction in Jurisdictional Area**
Where territory is removed from the jurisdictional area, the zoning boundaries coterminous with the jurisdictional boundary shall be considered to move with the jurisdictional boundary.
- 2-C-2 **Application for Interpretation by Board of Zoning Appeals**
- Where a dispute still exists in the location of a district boundary, application may be made to the Board of Zoning Appeals for an interpretation in accordance with Section 7-B-4 of this Ordinance.

3 DISTRICT REGULATIONS

3-A SCHEDULE OF DISTRICT REGULATIONS

3-A-1 RESIDENTIAL (R)

Intent: The Residential (R) District is created to provide for single-family residences at a moderate level of density comparable to the current density of residential development in the Town. Development within this district is encouraged to use traditional neighborhood design concepts to provide housing that is a continuation of the arrangement, scale, and architectural character of the Town. Development within this district shall preserve existing natural features, vegetation, and promote excellence in site planning and landscape design.

3-A-1-a Permitted Uses and Structures

(11/1/05)

1. Principal Uses and Structures

- a. Single-family Dwellings
- b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, doghouses, and private swimming pools
- c. Home occupations

(10/2/07)

2. Special Uses and Structures

- a. Accessory Structures to single-family dwellings for human habitation
- b. Cemeteries
- c. Churches and other places of worship
- d. Community buildings, public and private
- e. Day care centers and nursery schools for 13 or more clients
- f. Financial Institutions (with or without drive-thru windows)
(see section 3-A-1-h below for additional regulations)
- g. Government and other public uses (including police, fire, library, museum, and postal facilities) (see section 3-A-1-h below for additional regulations)
- h. Office, Business or Professional (including medical clinics) (see section 3-A-1-h below for additional regulations)
- i. Private or public schools, parks, playgrounds and related uses
- j. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements
- k. Recreational uses (public swimming pools, tennis courts, etc.)
- l. Sewerage System & Treatment Works

3-A-1-b Lot and Setback Standards

(12/4/07)

1. Lot area

Critical Environmental Areas or Private Access Easements shall not be included when determining whether a lot complies with the following minimum or maximum lot area standards.

- | | |
|--------------------------------------|--------------------|
| a. Minimum | 7,500 square feet |
| b. Maximum (for single family only): | 20,000 square feet |

(10/2/07)

2. Minimum set backs on lots less than 15,000 square feet in area:

a. Minimum width:

Interior lot: 60 feet
Corner lot: 75 feet

b. Yard requirements:

Front yard: 15 feet
Front yard or
Side yard: 25 feet for the vehicle entrance to
garages, carports, or other structures
used to store vehicles
Side yard: 5 feet for all structures
Rear yard: 25 feet
5 feet for accessory structures

3. Minimum set backs on lots 15,000 square feet in area and greater:

a. Minimum lot width:

Interior lot: 75 feet
Corner lot: 90 feet

b. Yard requirements:

Front yard: 25 feet
Side yard: 10 feet
5 feet for accessory structures
25 feet for the vehicle entrance to
garages, carports, or other structures
used to store vehicles
Rear yard: 35 feet
5 feet for accessory structures

4. Minimum setback on all lots from a railroad right of way: 25 feet

3-A-1-c

Common Open Space

Subdivisions of at least two acres of land, with an average lot size of less than 15,000 square feet, shall show at least 20% of the site area of the subdivision as open space dedicated to common usage and ownership. When one-fourth of the total common open space (5% of the net site area) is at least 5,000 square feet in area, it shall be developed and designed for recreational and active community open space. Critical Environmental Areas shall not contribute to common open space requirements.

3-A-1-d

Critical Environmental Areas

1. Critical Environmental Areas (CEAs) are 100-year flood plains, sinkholes (the area within 100 feet of the discernable edge of the sinkhole), and slopes in excess of 25 percent.
2. Structures requiring building permits shall not be located in CEAs.

3. CEAs shall not be included in maximum or minimum lot area or any density calculations, or be used to meet open space requirements or to meet setback requirements.
4. CEAs shall not be developed; they shall be left in a generally natural state as determined in the Management Plan.

3-A-1-e Critical Environmental Areas/Common Open Space (CEA/COS) Management Plan
A CEA/COS Management Plan shall be filed with a preliminary subdivision plat.

3-A-1(-f Impervious Area

(5/11/04)

(12/4/07)

(5/11/04)

1. Not more than 25% of a lot shall be covered with an impervious surface.
2. No impervious surface shall be closer than 3 feet to any side or rear property line.

3-A-1-g Maximum Structure Height:

(11/2/04)

(12/4/07)

30 feet, except 25 feet on parcels of less than one acre with a width of less than 75 feet

3-A-1-h Additional Regulations

(11/1/05)

(10/5/2010)

(12/7/2010)

1. Refer to Section 4-J for off-street parking requirements.
2. All common improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by and be the sole responsibility of the property developer/owner until such time as the developer/owner conveys such common area to a responsible entity approved by the Town.
3. Financial Institutions, Government and other public uses, and Business or Professional Offices shall be no larger than 4,000 square feet and shall have direct access on to Greenway Avenue (U.S. Route 340) or Main Street (Virginia Route 723).
4. Accessory Structures shall not be located in the front yard of a single-family dwelling.
5. A subdivision may be approved with access to a portion of the lots by Private Access Easement(s), however not less than three nor more than five lots in the Residential Zoning District may be served by any individual access easement.
6. Temporary Family Health Care Structure shall be (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use. Such a structure shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.
 - a. For purposes of this section:
 1. "Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

2. "Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Virginia Code § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.
 3. Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
- b. Any person proposing to install a temporary family health care structure shall first obtain a Zoning Permit. To obtain Zoning Permit approval, the applicant shall provide sufficient proof of compliance with this section. The applicant shall provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.
 - c. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
 - d. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
 - e. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
 - f. The Zoning Administrator may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the Town Council may seek injunctive relief or other appropriate actions or proceedings in Circuit Court to ensure compliance with this section. The Zoning Administrator is vested with all necessary authority to ensure compliance with this section.

3-A-2 BUSINESS (B)

Intent: The Business (B) District is established to provide locations for highway commercial uses on Greenway Avenue, and retail, offices, and employment related businesses on both Greenway Avenue and Main Street. Development under this district is permitted only in accordance with a site plan.

The application of this district is intended for locations where office, retail, and similar activities are the principal use. High quality commercial site design principals are to be incorporated into the B District uses. Highway oriented commercial uses shall be located where they are pre-planned and creatively grouped in an efficient manner meeting the comprehensive planning objectives with frontage on a primary highway.

The specific uses permitted within the B District must be in harmony with the cultural and environmental character of the Town of Boyce. No use should be permitted which might be harmful to the adjoining land uses and the residential ambiance of the community at-large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities and promoting pedestrian circulation within the Town of Boyce.

3-A-2-a Principal Uses and Structures

(3/2/2010)

1. Permitted Uses and Structures on parcels with frontage on Greenway Avenue and Main Street:
 - a. Churches and other places of religious assembly
 - b. Clubs or Lodges
 - c. Community Services
 - d. Inns
 - e. Multi-family Apartment Dwellings (three or more attached apartment dwellings, allowed either as a stand alone use or with other uses)
 - f. Offices, Business or Professional (including medical clinics)
 - g. Plant nurseries
 - h. Public utilities and related easements
 - i. Restaurants (without drive-thru)
 - j. Retail and Service businesses
2. Permitted Uses and Structures on parcels with frontage on Greenway Avenue
 - a. Assisted Living Facilities
 - b. Automobile and Light Truck service and repair establishments (provided that all vehicle repair takes place in a fully enclosed building)
 - c. Car washes
 - d. Convenience Store with gasoline sales
 - e. Day care centers
 - f. Financial institutions (with drive-thru windows)
 - g. Gasoline Filling Stations
 - h. Laundromat
 - i. Veterinary hospitals (small animals), exclusive of out-door boarding kennels

3. Permitted Uses and Structures on parcels with frontage on Main Street
 - a. Financial institutions (without drive-thru windows)
4. Special Uses on parcels with frontage on Greenway Avenue and Main Street
 - a. Assembly halls and auditoriums
 - b. Single Family Dwellings
 - c. Structures Supporting Telecommunication Antennae (more than 40 feet high)
 - d. Two Family Dwellings
 - e. Custom Architectural Woodwork and Millwork
5. Special Uses on parcels with frontage on Greenway Avenue
 - a. Farm machinery sales and service (provided that all service activities take place in a fully enclosed building)
 - b. Farm supplies and sales (provided that all storage activities take place in a fully enclosed building)
 - c. Warehousing and Storage of 10,000 square feet or less excluding mini-warehouses/self-storage units, (#53113 in the North American Industry)
 - d. Wholesale establishments of 10,000 square or less
6. Special Uses on parcels with frontage on Main Street
 - a. Financial institutions (with drive-thru windows)

3-A-2-b Non-residential and Multi-family Density, Lot, and Setback Standards

- | | | |
|----------|---|--|
| 1. | Minimum lot area: | 10,000 sq ft
(excluding Critical Environmental Areas) |
| 2. | Minimum lot width: | 60 feet |
| (5/3/11) | 3. Setback from a primary highway: | |
| | a. Minimum (except as noted in Sections 3b & c below): | 5 feet |
| | b. Minimum for the vehicle entrance to garages, carports, or other structures used to store, repair, or service vehicles: | 25 feet |
| | c. Minimum for fuel pump canopies | 10 feet |
| | d. Maximum for structures with non-residential uses on the ground floor (except as noted in Sections 3e below): | 20 feet |
| | e. Maximum for the vehicle entrance to garages, carports, or other structures used to fuel, store, repair, or service vehicles: | 60 feet |
| (5/3/11) | 4. Setback from a secondary highway (including town streets) | |
| | a. Minimum (except as noted in Sections 4b below): | None |
| | b. Minimum for the vehicle entrance to garages, carports, or other structures used to store, repair, or service vehicles: | 25 feet |
| | c. Maximum for structures with non-residential uses on the ground floor (except as noted in Section 4b below): | 15 feet |
| | d. Maximum for the vehicle entrance to garages, carports, or other structures used to fuel, store, repair, or service vehicles: | 60 feet |

- (5/3/11) 5. Minimum setback requirement from a railroad right of way or a residential zoning district: 25 feet
- (10/2/07) 6. For Multi-family apartment dwellings:
Two units for the first 10,000 square feet of lot area, one unit for each additional 5,000 square feet (excluding Critical Environmental Areas)
- 3-A-2-c Single-family Dwellings Density, Lot, and Setback Standards: See Section 3-A-1-b
(5/3/11)
- 3-A-2-d Critical Environmental Areas
1. Critical Environmental Areas (CEAs) are 100-year flood plains, sinkholes (the area within 100 ft of the discernable edge of the sinkhole), and slopes in excess of 25 %.
 2. Structures requiring building permits shall not be located in CEAs.
 3. CEAs shall not be included in maximum or minimum lot area or any density calculations, or be used to meet landscaping requirements or to meet setback requirements.
 4. CEAs shall be left in a natural state as determined in the project site plan
- 3-A-2-e Impervious Area
(5/3/11) Not more than 60% of a lot shall be covered with an impervious surface. A Best Management Practice Vegetated Roof shall not be considered impervious surface.
- 3-A-2-f Maximum Structure Height: 30 feet, except 25 feet for structures used exclusively for residential dwellings.
(10/2/07)
- 3-A-2-g Additional Regulations
(10/5/10)
(5/3/11)
1. Parking, Streets, and Access
 - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
 - b. The location, spacing and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval.
 - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
 - d. Business uses on parcels with frontage on secondary highways are not required to provide off-street parking spaces;
 - e. All uses on parcels with frontage on secondary highways shall not have off-street parking spaces located in any front yard areas;
 - f. A subdivision may be approved with access to a portion of the lot(s) by Private Access Easement(s), however not more than two lots in the Business Zoning District may be served by any individual access easement.
 - g. 30 feet of right of way shall be dedicated from the centerline of primary highways when a subdivision or site plan is submitted.
 - h. 20 feet of right of way shall be dedicated from the centerline of secondary highways when a subdivision or site plan is submitted.

2. Storage of Materials and Refuse
 - a. All business services (and storage) shall be conducted within the principal structure, which is to be completely enclosed.
 - b. All refuse containers shall be screened by a solid wall or fence.
 - c. Any establishment involved with the storage of petroleum fuel for sale, for on-site use, or for any other purposes, shall be permitted only if petroleum the fuel is stored underground, except where otherwise permitted under provisions established by the Planning Commission.
 - d. All storage shall be conducted within the principal structure, which is to be completely enclosed.

3. Retail display area limits
For each parcel fronting on Main Street, not more than a total of 5,000 sq ft of display area for retail items shall be provided, whether in a building or outside of a building.

4. Site Plan
 - a. A site plan, which shall govern all development, shall be submitted for approval as specified in Section 6 of this Ordinance. Single-family dwellings and accessory structures to single-family dwellings shall be exempt from this regulation.
 - b. Site plans shall include provisions for:
 - 1) adequate public facilities,
 - 2) development phasing,
 - 3) storm water management facilities to address the ultimate development coverage within the district.
 - 4) lighting and signing,
 - 5) building placement and configuration,
 - 6) landscaping and buffering, and
 - 7) other special site features and land use considerations deemed necessary to serve the district.
 - c. All uses shall be subject to final site plan approval.

4 GENERAL REGULATIONS

4-A APPLICATION OF DISTRICT REGULATIONS

4-A-1 General

Except as hereinafter provided in this Ordinance, the regulations set by this Ordinance within each district shall be minimum or maximum limitations, as appropriate, and shall apply uniformly to each class or kind of structure or land.

4-A-2 Use, Occupancy and Construction

Except as otherwise provided in Section 4-K no building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be constructed except in conformity with all the regulations herein specified for the district in which it is located.

4-A-3 Height, Bulk, Density, Lot Coverage, Yards and Open Spaces

No building or other structure shall hereafter be erected or altered:

4-A-3-a To exceed the height or bulk as herein allowed;

4-A-3-b To accommodate a greater number of dwelling units or to have greater floor area than as herein allowed;

4-A-3-c To occupy a greater percentage of lot area than as herein allowed;

4-A-3-d To have narrower or smaller rear yards, front yards, side yards, or open spaces than as herein allowed.

4-A-3-e To be in any other manner contrary to the provisions of this Ordinance.

4-A-4 Required Yard, Open Space, Area, Parking or Loading Space for One Structure, or Use, Not be Used to Meet Requirements for Another

No part of a yard or other open space, area, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, area, or off-street parking or loading space similarly required for other building.

4-A-5 Reduction of Lots or Areas Below Minimum Prohibited

No lot or area existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or other areas created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

4-A-6 Reduction of Yards Below Minimum

No yard existing at the effective date of this Ordinance shall be, by the construction of a building, reduced in dimension below the minimum requirements set forth herein. Yards in lots created after the effective date of this Ordinance shall meet at least the minimum requirements

established by this Ordinance.

4-A-7 Reduction of Required Off-Street Parking or Loading Space

No existing off-street parking or loading space, and no off-street parking or loading space hereafter provided, that meets all or part of the requirements for off-street parking or loading space set forth in these regulations, shall be reduced or eliminated so that resulting reduction results in area not meeting requirements or standards contained herein. Reductions may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

4-B USES GENERALLY

The following regulations are supplementary regulations for districts listed in the Schedule of District Regulations, and are in addition to other provisions and requirements of this Ordinance.

4-B-1 Cemeteries

No grave, mausoleum, or other interment site shall be located nearer than 100 feet to a potable water supply source. Fee simple ownership of land used for interment of bodies shall be required. The section of a proposed location set aside for interment shall be free of all financial encumbrances, and after approval of a proposed location, it shall be unlawful to encumber any section thereof in which interments have been made or which is set aside for interments.

4-B-2 Dwelling that is Portable

Except as otherwise specifically provided in this Ordinance, no portable dwelling, occupied or vacant, shall be located on any lot.

4-B-3 Structure that is Temporary

4-B-3-a The Zoning Administrator may, upon application, permit the erection and occupancy of a temporary dwelling or Major Recreational Equipment with cooking and toilet facilities during the construction of a dwelling on the same lot, and may specify appropriate conditions and requirements to be applied to the permit, in which event the permit shall be subject to such conditions and requirements. This temporary dwelling permit shall be valid for one year, but may be renewed for one additional year by the Zoning Administrator.

4-B-3-b Temporary Parking of Manufactured (Mobile) Homes or Modular Structures Except as otherwise provided in this section, no manufactured home or modular structure should be parked in the Town of Boyce for a period of more than five consecutive days.

(1-8-02)

1. Hardship Exception

A manufactured home may be parked on land temporarily in accordance with the following provisions:

- a. The person desiring to use the manufactured home shall file with the Zoning Administrator an application for a temporary manufactured home permit.
- b. The Zoning Administrator shall issue the permit if it is found that:
 - 1) A hardship exists as a result of applicant's permanent structure in the Town of Boyce, having been destroyed by natural causes, such as fire, wind, flood or rain; and,
 - 2) The applicant needs to maintain temporary space while a permanent structure is being reconstructed; and,
 - 3) The applicant proves that there is a pressing need to maintain such temporary

- space on the subject land; and,
- 4) The land on which the manufactured home is to be located is the land on which the destroyed structure was located.
- c. The temporary manufactured home permit shall be valid for a period of six months. The permit may be renewed for a period of six months, upon a showing of satisfactory progress toward securing a permanent structure, for no more than three subsequent times to allow said use to exist for a total period of not to exceed two years.

2. Construction Project or School Exception

A modular office or classroom used in conjunction with a construction project or public school may be parked on land temporarily in accordance with the following provisions:

- a. The person or organization desiring to use the modular structure shall file with the Zoning Administrator an application for a modular structure permit.
- b. The Zoning Administrator shall issue the permit if it is found that:
 - 1) The location of the modular structure on the subject land is essential and necessary for the housing of full-time construction workers or officials on a construction project, or for offices or shops for the construction project, or for educational activities associated with a public school.
 - 2) The sanitary facilities for the modular structure will conform to the requirements established by the Commonwealth of Virginia and the Clarke County Sanitary Authority.
- c. The Zoning Administrator, in issuing any such modular structure permit, shall issue the Permit to be effective for a period equal to the anticipated period of construction on the project or period of need as identified by public school officials, but not exceed two years. Applications for renewal may be submitted to the Zoning Administrator at least 60 days prior to the expiration date of the existing permit. The application for renewal shall identify the time period for the extended approval of the permit. Said Permit may be renewed by the Planning Commission for a period of time it determines appropriate.
- d. The Zoning Administrator, in issuing said Permit, may require the posting of a bond to assure that the modular structure will be removed and the site left in good order at the expiration of the Permit, and may establish such additional requirements as may be in the public interest.

4-B-4 Dwelling Displayed for Advertising Purposes (model home)

Construction of a house displayed for advertising purposes, not intended to be sold or occupied as a dwelling, whether in connection with a residential development or otherwise, shall not commence until a performance bond adequate to insure the removal of the structure has been posted.

4-B-5 Motor Vehicle Sales and Service

No vehicles shall be parked or displayed in any required front, side, or rear setback areas.

- 4-B-6 Structures (more than 40 feet high) supporting Telecommunication Antennae
- 4-B-6-a The visual impact of a structure and any associated facilities shall be mitigated to blend with the natural and built environment of the surrounding area. Such mitigation measures shall address: architecture, color, landscaping, lighting, materials, siting, topography, and visual screening.
- 4-B-6-b The applicant shall show that a proposed tower shall not trigger a requirement, public or private, that it be lighted nor shall it be lighted on a voluntary basis.
- 4-B-6-c A structure shall be set back from any property line a distance equal to the height of the structure.
- 4-B-6-d The applicant shall provide verifiable evidence of the lack of antenna space on existing structures, buildings, or other structures suitable for antenna location, or evidence of the unsuitability of existing structure locations for co-location.
- 4-B-6-e The applicant shall submit an engineering report showing that the proposed tower will have a load limit that will allow a minimum of four users.
- 4-B-6-f The applicant shall submit documentary evidence of compliance with all Federal Aviation Administration and Federal Communication Commission requirements.
- 4-B-6-g The owner of the structure shall dismantle the structure and all associated structures if no functioning antenna is attached to the structure for 12 consecutive months and restore the site as nearly as possible to pre-existing site conditions.
- 4-B-7 All Uses in the Business district requiring a Special Use Permit (Except Structures for Telecommunication Antennae) must be directly accessed from a primary arterial highway.
- 4-B-8 Uses Not Provided For
- 4-B-8-a When a use is not specified in the regulations of any district in this Ordinance, a landowner may request in writing the Planning Commission to initiate an amendment to the Ordinance to provide for the use. The Planning Commission shall act upon said request within 63 days, and may pass a resolution to provide for the use if it finds:
1. That there is no clear intent to exclude such uses; and,
 2. That the proposed use is appropriate within the district and would have no more adverse effects on other uses within the district, or on uses in adjoining districts, than would uses of the same general character permitted in the district; and
 3. That the proposed is compatible with the Comprehensive Plan.
- 4-B-8-b Upon the passage of such a resolution by the Planning Commission, the Planning Commission and the Town Council shall proceed to act upon the proposed amendments as set forth in Article 8 of this Ordinance.
- 4-B-8-c In acting upon such proposed amendment, the Planning Commission and the Town Council shall be guided by the criteria set forth in Section 4-B-1-a above, in addition to the general criteria for amendments to this Ordinance.

4-B-9 Veterinary Services, Animal Hospitals, Kennels

Except where animals are kept in sound proof, air-conditioned buildings, no structures or area occupied by such animals shall be within 50 feet of the property line of any adjacent lot. Where a dwelling on an adjacent lot is within 200 feet of a structure occupied by animals, there shall be erected a solid fence or other sound baffling/deadening structure within 50 feet of the structure occupied by animals and between such structure and the adjacent dwelling.

4-C ACCESSORY STRUCTURES, RECREATIONAL EQUIPMENT VEHICLES

4-C-1 Residential Occupancy of Accessory Buildings

Except as otherwise specifically provided in this Ordinance, use of accessory buildings as dwellings or lodgings is expressly prohibited.

4-C-2 Parking, Storage, or Use of Major Recreational Equipment

The following regulations shall apply to parking, storage and use of major recreational equipment in the Residential district:

4-C-2-a Major Recreational Equipment Defined

Major recreational equipment as defined for purposes of these regulations, includes travel trailers, pick-up campers, motorized dwellings, tent trailers, boats and boat trailers, houseboats and the like, and cases or boxes used for transporting such recreational equipment, whether occupied by such equipment or not.

4-C-2-b No major recreational equipment shall be used for living, sleeping, or other occupancy when parked or stored on a residential lot, or any other location not approved for such use except as allowed in Section 4-B-3.

4-C-2-c Major recreational equipment six feet or more in average height, not parked or stored in a garage, carport, or other building:

1. Shall not be located in any required front or side yard;
2. Shall be located at least three feet from all buildings.

4-C-2-d No major recreational equipment not in operating condition shall be parked outdoors in the Residential Zoning District.

4-C-3 Limitation on Parking or Storage of Inoperable Vehicles

4-C-3-a No inoperable vehicle shall be parked or stored outside of a completely enclosed structure on any lot in the Residential district.

4-C-3-b The parking and storage of fully assembled vehicles in mechanically operating condition that do not display current state license, current inspection sticker, and/or current county decal, may continue on a parcel containing a vehicle sales business in operation as of January 1, 1999.

4-C-3-c Inoperable vehicles may be temporarily stored on a parcel containing a vehicle sales and/or repair business in operation as of January 1, 1999, when necessary for insurance claim

purposes or pending legal matters, provided that the business is not a home occupation and the vehicle is stored for not more than one year.

4-C-4 Portable Structure

The owner of any parcel, on which a portable structure is sited for more than five days, must obtain a permit for such structure from the Zoning Administrator. Such a portable structure shall comply with all applicable structure setback requirements and may not be located on a parcel for more than 90 days within a 12-month period of time.

4-D GENERAL REQUIREMENTS CONCERNING ARRANGEMENT AND LOCATION OF STRUCTURES

All buildings and other structures shall be so located and arranged on lots as to provide safe and convenient access for fire fighting equipment, servicing, and off-street parking located on the premises.

4-E ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON LOT

4-E-1 Business District

In the Business district, more than one structure housing a principal permitted use, or a use permitted with a Special Use Permit, may be erected on a single lot, provided that yard, area and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot. In the Residential district, only one structure housing a principal permitted or one structure housing a use permitted with a Special Use Permit may be erected on a single lot, unless otherwise approved and permitted in conjunction with the granting of the Special Use Permit or unless otherwise permitted in the Schedule of District Regulations.

4-E-2 Accessory Buildings

No accessory building larger than 150 square feet shall be erected on any lot or parcel without a building containing a permitted use or use with a special use permit, or prior to the issuance of a building permit for a building containing a permitted use or use with a special use permit.

4-F DRAINAGE

No building shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Factors to be considered in determining substantial change shall include existing zoning recommendations of the adopted Comprehensive Plan, and adopted drainage standards of the Virginia Department of Transportation. In his administration of this requirement, the Zoning Administrator may obtain the recommendations of governing agencies and other agencies or individuals that the Zoning Administrator believes may be of assistance.

4-G LOT REGULATIONS

4-G-1 Lot Access Requirements

No structure requiring a building permit shall be erected upon any lot that does not have frontage on a public right of way, except as specifically provided in subdivision regulations, or in planned developments in accordance with the provisions of this Ordinance.

- 4-G-2 Visibility Clearance at Intersections
 For protection against traffic hazards, no impediment to visibility (defined as any impediment that could conceal a child on a bicycle from an approaching driver) shall be placed, allowed to grow, erected, or maintained within visibility triangles described as follows:
- 4-G-2-a At Street Intersections: The apex is at the intersecting right-of-way lines, the sides are 25 feet in length, and the base runs through the lot.
- 4-G-2-b At Driveway Intersection With Streets: The apex of the triangle is at the intersection of the street right-of-way line with the edge of the driving surface to the driveway nearest to the approaching traffic lane, the side of the triangle coterminous with the street right-of-way line is 25 feet in length, the side of the triangle coterminous with said edge of driveway is 20 feet in length, and the base runs through the lot.
- 4-G-2-c Exceptions: Where terrain features present substantial obstacles to provision and maintenance of such visibility triangles, the Zoning Administrator may permit the provision and maintenance of lesser visibility clearance, but such clearance shall be the maximum that is reasonably practicable to provide and maintain.
- 4-G-3 Uses and Structures Permitted in Required Yards
- 4-G-3-a Driveways or Patios not more than 30 inches above grade;
- 4-G-3-b
 (10/05/10) Fences, Walls, or Hedges up to six feet in height, generally and for corner lots, however, not more than three feet six inches in height within the area less than 25 feet from the intersection of two right of way lines of streets maintained by the Commonwealth of Virginia, Town of Boyce, or the intersection of such public streets and recorded private access easements serving three or more parcels.
- 4-G-3-c
 (1/6/09)
 (5/3/11) Architectural or Building Elements (defined as: porches without roofs, balconies without roofs, decks without roofs, or steps without roofs, bay or bow windows, chimneys, eaves, or mechanical equipment).
1. In the Residential Zoning District, such elements may project not more than four feet into any required yard, (except for porches, decks or balconies without roofs, which may project six feet into a required rear yard) but no such elements, shall not be closer than five feet to any property line or right of way.
 2. In the Business Zoning District, such elements (further defined as including porches, balconies, decks, or steps with roofs) may project into any required yard, but shall not be closer than five feet to any property line of a parcel in the Residential Zoning District.
- 4-G-4 Regular Lots
- 4-G-4-a Width Measurements: The width of a regular lot shall be determined by measurement at the required front yard between side lot lines. However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed 90 feet, the distances between side lot lines (measured in a straight line) may be reduced to sixty percent.

- 4-G-4-b Frontage:
1. Regular interior lots: the front shall be construed to be the portion nearest the street.
 2. Regular corner lots: the front shall be construed to be the shortest boundary fronting on a street. If the lot has equal frontage on two or more streets, frontage shall be construed in accordance with the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.
 3. Regular Through Corner Lots: if the shortest boundary fronting on a street is eighty percent or more of the length of the longest boundary fronting on a street, the applicant may select either frontage if lot width requirements of the district are met.
 4. Regular Through Lots: the lot shall meet the frontage requirement on at least one of the two streets.

- 4-G-4-c Yards:
1. Front yards: The required depth shall be provided across the frontage of a regular lot.
 2. Rear Yards on Interior Regular Lots: The required depth shall run across the full width of the lot at the rear. Depth of a required rear yard shall be measured in such a manner that the yard is a strip of minimum depth required by district regulations with its inner edge parallel to its outer edge.
 3. Yards on Corner Lots: Regular corner lots shall be deemed to have two front yards (one adjoining each street or private access easement on which the lot abuts) and two side yards. Through corner lots shall be deemed to have three front yards (one adjoining each street or private access easement on which the property abuts) and one side yard.
 4. Side Yards on Regular Lots: Such yards defined as running from the required front yard line to the required rear yard line. On corner lots the required side yards shall run from the point where side yard lines intersect, to required front yards lines.

4-G-5 Irregular Lots

- 4-G-5-a Dimensional Requirements: An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:
1. Lot Area shall meet district requirements for the proposed use. Lot width need not meet district requirements if requirements set forth below is met.
 2. Open Space in required yards and elsewhere on the lot shall be not less than as required for the use in the district on a regular rectangular lot of required minimum width and area.
 3. Building Area remaining after required yards have been provided shall have dimensions and location appropriate for all buildings proposed.

- 4-G-5-b Yard Requirements: In general, all yards shall provide at least the same separation from all lot lines as required for minimum side yards in the district, provided, however, that where district regulations permit building to the lot line of a regular lot under specified circumstances, the same regulations shall apply on a irregular lot. Additionally, if an irregular lot abuts a street at any point, a distance equal to the required yard on a regular lot adjacent to a street in the district shall be provided.

4-G-6 Lot Coverage by Buildings

Except as otherwise specifically provided, in computations to determine lot coverage by buildings, building coverage shall be construed as including all areas under roofs or projections from buildings on the lot.

4-H HEIGHT REGULATIONS

4-H-1 General Intent

No building or structure shall be located on any property, which building or structure exceeds the height limitations set forth in the Schedule of District Regulations. It is the intent of the height regulations to secure safety, to provide adequate light and air, and to protect the character of districts and the interests of the general public in important views.

4-H-2 Fire and Safety Requirements

4-H-2-a Fire Protection: No building exceeding forty feet in height above grade shall be erected without certification from the Zoning Administrator that such building as proposed to be located, constructed, and equipped, can be properly protected in case of fire. In determining whether to make such certification, the Zoning Administrator may consult appropriate county and/or state agencies or officials, or officials of fire fighting and fire prevention organizations. In case of structures other than buildings exceeding forty feet in height, the Planning Commission may require such certification where the Planning Commission determines that there is substantial fire danger to surrounding properties.

4-H-2-b Aviation Hazards: No building or other structure shall be located in a manner or built to a height, which constitutes a hazard to aerial navigation. Structures shall not be erected in a location or to be built to a height that the Planning Commission believes may be hazardous to air traffic without certification from the Federal Aviation Administration that as proposed to be located, constructed, and equipped, it will not constitute a hazard to air traffic.

4-H-3 Height Limitations

4-H-3-a Exceptions--Excluded from Application: The height limitations of this Ordinance shall not apply to barns, silos, farm buildings, smokestacks, or water tanks, not exceeding in height the distance there from to the nearest lot line.

4-H-3-b Exceptions--Limited:

1. Towers, gables, penthouses, scenery lofts, residential chimneys, cupolas, spires, similar structures, and necessary mechanical appurtenances, may be erected on a building to a height greater than the limit established for the district in which the building is located. Provided, that no such exception shall cover at any level more than fifteen percent of the area of the roof on which it is to be erected and further, that no such exception shall exceed maximum height established in the district by more than fifty percent.
2. Amateur Radio Antenna may be erected up to a height of 75 feet, provided the antenna shall be setback one foot from any property line for each foot of height.

4-H-3-c Parapet Walls, Cornices, etc.: A parapet wall, cornice or similar projection may exceed the height limit established for the district by not more than three feet, but shall not extend more

than three feet above the roof level of any building.

4-H-3-d Accessory Building in Residential Districts: Accessory structures with a side yard setback of less than 10 feet and/or rear yard setback of less than 25 feet shall not exceed a height of 12 feet.

4-I SIGN REGULATIONS

4-I-1 General Provisions

All signs shall comply with the following provisions, and it shall be unlawful for any person to erect or maintain a sign that does not comply with the following provisions:

4-I-2 Signs Prohibited

Signs with any of the following characteristics are prohibited:

4-I-2-a Violates Virginia Law: Any sign which violates any provision of the laws of Virginia relating to outdoor advertising, including Sections 33-298 to 33-327 inclusive, 33-279, and 46-187 of the Code of Virginia, as amended;

4-I-2-b Other Than on Property or Structure to Which it Directs Attention: Any sign that is located anywhere other than on the property or structure to which it directs attention or to which it is appurtenant, except:

1. any sign erected or maintained by or under the supervision of county or other governmental authority or the Virginia Department of Transportation, and
2. any other sign which is specifically provided in this article.

4-I-2-c Outlines any Building with Neon or Other lights: Any sign which outlines any building or part thereof with neon or other lights;

4-I-2-d On Trees, Fences, Public Utility Pole, Etc.: Any sign which is fastened, placed, painted, or attached in any way to, in, or upon any tree, fence, public utility pole, rock, curbstone, sidewalk, lamp post, hydrant, bridge, highway marker or another sign, except such as may be:

1. required by law,
2. so placed by a duly authorized governmental agency,
3. so placed not as an advertisement but as a warning against hunting, fishing or trespassing, or
4. not visible from any highway.

4-I-2-e Casts Glare on Highway or Adjoining Property: Any illuminated sign, which reflects or casts a glare, directly or indirectly, on any public roadway or adjacent property.

4-I-2-f Roof Signs

4-I-2-g Billboards: Any billboard or general advertising sign.

4-I-2-h Changeable message signs (except time and temperature signs): Any sign on which the display or message changes more rapidly than once every ten seconds.

(10/05/10)

4-I-2-I (10/05/10) Moving Signs or displays: Any sign and/or its display/message that moves, revolves, twirls, rotates, flashes, including animated signs, multi-prism signs, floodlights and beacon lights except when required by the Federal Aviation Agency or other governmental agency.

4-I-2-j (10/05/10) Time and temperature signs: Any sign displaying time and temperature in which such message changes more rapidly than once every five seconds.

4-I-3 Signs Permitted

Only signs as listed, described, or otherwise provided for as follows and any signs allowed by the Virginia Department of Transportation shall be permitted as freestanding or wall signs. These signs shall be subject to such regulations as are specifically set forth in each case and to all other regulations in this Ordinance.

4-I-3-a Freestanding Signs in Residential Zoning District:

1. Number Permitted 1 per parcel
2. Maximum Area for each sign
 - a. for permitted uses (including home occupations) on a secondary hwy 2 square feet
 - b. for permitted uses (including home occ.) on a primary hwy or Rt. 723 6 square feet
 - c. for special uses on a secondary highway 8 square feet
 - d. for special uses on a primary highway or Rt. 723 24 square feet
3. Maximum Height:
 - e. for permitted uses 4 feet
 - f. for special uses 6 feet
4. Minimum Setback from side and rear property lines: the distance equal to the height of the sign
5. Illumination: No sign shall be illuminated

4-I-3-b Freestanding Signs for all uses in the Business Zoning District:

1. Number Permitted:
 - a. 1 for each parcel with less than 300 feet of frontage on public right(s) of way
 - b. 2 for each parcel with 300 feet or more frontage on public right(s) of way
2. Maximum Area for each sign
 - a. on a secondary highway: 16 square feet
 - b. on a primary highway: 32 square feet
3. Maximum Height
 - a. on a secondary highway: 8 feet
 - b. on a primary highway: 10 feet
4. Minimum Setback: from front, side, and rear property lines: the distance equal to the height of the sign
5. Illumination: Signs may be illuminated.

(10/05/10)

- a. Such illumination shall be external and comprised of not more than two fully shielded down cast lights or
- b. Such illumination may be by electronic display utilizing light emitting diodes (LEDs), fiber optics, plasma display screen, or other similar electronic illumination.
- c. Signs shall be illuminated only during hours when the use is open for business.
- d. External light illumination shall not exceed a maximum 150 watts for incandescent lights or of equivalent brightness for non-incandescent lights and shall be operational from sunset to 10 p.m., if the use is open for business during those hours.
- e. Electronic Display Illumination shall not exceed a maximum brightness of 5,000 nits

(candelas per square meter) from 8:00 a.m. to sunset and 500 nits from sunset to 10 p.m., if the use is open for business during those hours. Such signs shall be equipped with a working dimmer control device capable of automatically reducing the illumination to the required level. Before the issuance of a sign permit, the applicant shall provide written certification from the manufacturer that the light intensity and duration has been factory pre-set not to exceed the maximum intensity level and time limits. Maximum brightness shall be reviewed by the Zoning Administrator for appropriateness of brightness given the specific location of the sign and adjacent land uses.

f. Electronic Display signs shall “freeze” or go blank if there is a malfunction.

4-I-3-c

Wall Signs for all uses in Business Zoning District and for special uses in the Residential Zoning District:

1. Area: No wall signs shall exceed one square foot of sign area per two linear feet of building frontage of the wall that most directly faces a public right of way, up to maximum area of 200 square feet for all wall signs. For corner lots, this area calculation may be made for each of the two walls that most directly face public rights of way. Other walls shall not be included in calculating allowable sign areas; however, signs may be attached to any wall.
2. Projecting wall signs: Signs projecting more than 18 inches from a wall shall be between 8 and 12 feet above grade. Signs shall not project more than four feet from a wall. Projecting signs shall not be larger than 6 square feet in area.

(10/05/10)

3. Illumination: Wall Signs may be illuminated.
 - a. Such illumination shall be external and comprised of not more than two fully shielded down cast lights, or
 - b. Such illumination may be by electronic display utilizing light emitting diodes (LEDs), fiber optics, plasma display screen, or other similar electronic illumination.
 - c. Signs shall be illuminated only during hours when the use is open for business.
 - d. External light illumination shall not exceed a maximum 150 watts for incandescent lights or of equivalent brightness for non-incandescent lights and shall be operational from sunset to 10 p.m., if the use is open for business during those hours.
 - e. Electronic Display Illumination shall not exceed a maximum brightness of 5,000 nits (candelas per square meter) from 8:00 a.m. to sunset and 500 nits from sunset to 10 p.m., if the use is open for business during those hours. Such signs shall be equipped with a working dimmer control device capable of automatically reducing the illumination to the required level. Before the issuance of a sign permit, the applicant shall provide written certification from the manufacturer that the light intensity and duration has been factory pre-set not to exceed the maximum intensity level and time limits. Maximum brightness shall be reviewed by the Zoning Administrator for appropriateness of brightness given the specific location of the sign and adjacent land uses.
 - f. Electronic Display signs shall “freeze” or go blank if there is a malfunction.

4-I-3-d

Directional Signs:

1. Allowed On-site only in Business Zoning District
 - a. Number Permitted: 1 for each VDOT approved curb cut

- b. Maximum Area for Each Sign: 4 square feet
- c. Maximum Height: 4 feet
- d. Minimum Setbacks: a distance equal to the height of the sign.

2. Allowed Off-site in any zoning district

- a. Number Permitted: 2 per public right of way intersection
- b. Maximum Area for Each Sign: 8 square feet for non-profit institutions;
2 square feet for all other uses
- c. Maximum Height: 4 feet
- d. Minimum Setbacks: a distance equal to the height of the sign

4-I-3-e

Temporary Signs: Temporary signs may be permitted provided these are not illuminated or located in a public right of way. Temporary signs may be located off-premises for directional purposes. In addition, temporary signs are subject to the following regulations:

- 1. In the Residential district, such signs shall not exceed four square feet in area;
- 2. In the Business district, such signs shall not exceed eight square feet in area;

The Zoning Administrator shall determine the reasonable number of temporary signs, provided that any person desiring to erect three or more temporary signs for one activity shall first obtain a temporary sign permit from the Zoning Administrator, giving all reasonable information required. The Zoning Administrator shall grant no temporary sign permit for a period of more than three months, and only upon written agreement by the applicant that the signs shall be removed at applicant's expense before the expiration of a date specified in the permit. A reasonable bond to insure such removal may be required by the Zoning Administrator.

4-I-4

Removal Of Signs

Whenever a sign becomes structurally unsafe, endangers the safety of a structure or premise or the public, or is erected or maintained in violation of this Ordinance, the Zoning Administrator shall order such sign to be made safe or comply with the Ordinance or be removed. Such order shall be sent by registered mail and shall be complied with within 15 days from the date of mailing said order by the person owning or responsible for the sign. Failure to comply shall constitute grounds for the Zoning Administrator to have the sign removed, and the cost thereof shall be added to any fine imposed for violation under this Ordinance.

4-I-5

Nonconforming Signs and Removal

Any sign existing prior to the effective date of this ordinance that does not meet the requirements of this ordinance shall be deemed a nonconforming sign, and shall be subject to the following conditions:

4-I-5-a

If the repair cost of a damaged non-conforming sign is more than 50% of the assessed value, the sign must be brought into conformance with this ordinance and a Sign Permit (per Section 4-I-7 below) obtained.

4-I-5-b

Whenever the use of a structure or lot by a specific business is discontinued for that business, signs pertaining to that business, whether located on the structure, lot or on other

property, shall be removed within 30 days of the business vacating the premises.

- 4-I-6 Traffic Hazards
No sign shall be located or illuminated in such a manner as to cause a traffic hazard. Where a permit is required, the permit shall not be issued until the location and illumination (if any) of the sign are approved by the Zoning Administrator.

- 4-I-7 Sign Permits
No sign shall be erected, reconstructed, or refaced so as to advertise, promote or depict a business, activity or location other than that originally advertised until a sign permit has been issued by the Zoning Administrator.

- 4-I-8 Definitions
 - 4-I-8-a SIGN: Any device for visual communication out-of-doors which is used for the purpose of bringing the subject thereof to the attention of the public, but not including when standing alone, a flag, emblem, badge, or insignia of any governmental unit.

 - 4-I-8-b SIGN, ANIMATED: Any sign which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs set in motion by movement of the atmosphere, or made up of a series of sections that turn.
(10/05/10)

 - 4-I-8-c SIGN, AREA OF: The area of a sign shall be determined from its outside measurements including any wall work incidental to its decoration, but excluding as a part the height and overall width of supports, unless such supports are used to attract attention. In the case of a sign where lettering appears back to back, that is, on opposite sides of the sign, the aggregate area of both sides shall be considered that of only one face. In the case of an open sign made up of individual letters, figures, words, or designs, the sign area shall be the area of not more than three rectangles enclosing all letters figures, words, or designs.

 - 4-I-8-d SIGN, CHANGEABLE MESSAGE: A sign or portion of a sign where the message copy is changed manually or automatically through the utilization of attachable, reflective or illuminated letters, numbers, symbols, images and other similar characteristics, including electronic reader boards or electronic display signs.
(10/05/10)

 - 4-I-8-e SIGN, DIRECTIONAL: Any sign displaying directional messages for pedestrians or vehicular traffic.

 - 4-I-8-f SIGN, ELECTRONIC DISPLAY: A sign containing light emitting diodes (LEDs), fiber optics, plasma display screen, or other similar electronic illumination.
(10/05/10)

 - 4-I-8-g SIGN, FREESTANDING: Any on-site sign, which is supported from the ground and is not attached to any building.

 - 4-I-8-h SIGN, ILLUMINATED: A sign, or any part of a sign, which is illuminated, externally or internally, by lights from a source located for the specific purpose of such lighting.

 - 4-I-8-i SIGN, TEMPORARY: A sign advertising a candidacy for public office, an event of public interest, such as a public or general election, church or public meeting, fair, horse show, turkey shoot, sales, entertainment for charitable purposes and other similar social or permitted retail activities of temporary duration or nonrecurring nature.

4-I-8-j SIGN, TIME AND TEMPERATURE: Any sign whose only function is the display of
(10/05/10) information about current time and/or temperature.

4-I-8-k SIGN, WALL: A sign painted on or attached to a wall of a building, parallel to the wall,
and projecting out from or above the wall. The term wall sign shall also include marquee
and projecting signs.

4-J OFF-STREET PARKING

4-J-1 General Specifications

(3/2/2010) There shall be provided at the time of erection of any building or at the time any building is altered, enlarged, or increased in size, the required minimum off-street parking spaces as provided in the chart in Section 4-J-10. Said space or spaces shall be properly related to a street for access purposes, to maneuvering space of sufficient dimensions such that users may find safe and convenient parking movements without resorting to maneuvering on any street or sidewalk. Spaces and access ways shall be so located, arranged, and safeguarded as to provide appropriate separation from streets and walkways. Spaces shall be so arranged that any vehicle may be moved without moving another.

4-J-2 Construction and Design Standards

(3/2/2010) All off-street parking spaces and access driveways shall be covered with an all-weather surface. All spaces and driveways shall be graded and drained to dispose of surface water, and shall be constructed and maintained in a manner permitting safe and convenient use. No surface water from any parking area or access driveway shall be permitted to drain onto adjoining property so as to change existing drainage patterns or so as to cause damage to adjoining property from any increased runoff. For parking areas with spaces arranged at 90° to access driveways, standard off-street parking spaces shall be 9 feet wide and 18 feet long. However, up to 33% of provided off-street parking spaces may be for compact cars (defined as vehicles of 14 feet, 6 inches in length or less); such spaces shall be 8 feet wide and 16 feet long. Signage for such compact cars spaces shall be provided, to the extent determined appropriate by the Zoning Administrator. Access driveway aisles shall be 24 feet wide. For parking areas with spaces arranged at an angle less than 90° to access driveways, space and driveway dimensions shall follow standard engineering practice as determined appropriate by the Zoning Administrator.

4-J-3 Prohibited in Required Yards Adjacent to Streets

Except as otherwise specifically provided herein, no off-street parking areas for four or more automobiles shall be permitted in any required yard adjacent to a street, nor shall any maneuvering areas serving such spaces be so located.

4-J-4 Buffer Required Where Adjoining Residential Property

4-J-4-a Where off-street parking areas for four or more automobiles, or loading or service areas, are to be located closer than 50 feet to a lot in any residential zoning district, or to any lot upon which a dwelling exists as a conforming use under these regulations, without an intervening street, and where such parking, loading or service areas are not entirely screened visually from first floor residential windows at such adjacent locations, there shall be provided on the lot with the parking a continuous visual buffer with a minimum height of 6 feet. The buffer shall be a compact evergreen hedge or other foliage having the same effect, or shall

be combined fence or wall with shrubbery screening on the side toward the residential lot.

4-J-4-b No such buffer shall extend to any required yard adjacent to a street, or be so located as to interfere with traffic visibility required for reasons of safety.

4-J-5 Limitations on Use

4-J-5-a No required off-street parking shall be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies, and no other parking or other area on a lot shall be used for such purposes unless permitted under District Regulations.

4-J-5-b Off-street parking shall be provided only for principle uses, accessory uses, or special uses (approved by the Boyce Town Council) that are allowed by the regulations of zoning district in which the off-street parking is located.

4-J-6 To be located on Same Lot as Principal Use: Exceptions

4-J-6-a General: Required off-street parking facilities shall be on the same lot with the principal use or structure except as provided below.

4-J-6-b Exceptions: Where it is impractical to provide all or part of required off-street parking on the same lot, exceptions may be permitted by the Board of Zoning Appeals to allow off-street parking within the distances indicated in Section 4-J-6-c below, as measured by normal pedestrian routes, subject to:

1. Buffering and design and improvement standards applying generally to off-street parking.
2. Special conditions and safeguards called for in the circumstances of the case; and
3. Requirements of satisfactory assurance that such required parking will remain available for the use or structure, or that equivalent similarly approved parking will be provided before such parking is diminished in whole or in part.

4-J-6-c Distances: The Board of Zoning Appeals may permit off-lot parking not more than the indicated distance from the uses served, and in the same district or in a district appearing after said district in the Schedule of District Regulations. Distances shall be measured along pedestrian routes, and from the nearest portion of the off-street parking facility to an entrance to the use served. Maximum Distance to Off-Site Parking Facility (feet):

One and two-family	Must be on same lot
Other residential	300
All other uses	600

4-J-7 Joint Parking Facilities

4-J-7-a Where there are multiple uses on one lot, or where uses on adjoining lots propose to combine parking areas and/or access ways, such joint parking facilities shall be permitted, subject to the general requirements and limitations applying to all parking areas. The Zoning Administrator shall permit such combinations subject to the general requirements and standards set forth.
(3/2/2010)

4-J-7-b (3/2/2010) Where it is proposed to establish off-street joint parking facilities not contiguous to the uses served, but serving more than one use, such facilities may be permitted by the Planning Commission in conjunction with Site Plan approval.

4-J-7-c (3/2/2010) In joint parking facilities, of multiple uses, the total number of parking spaces must at least equal the sum of the minimum number of required off-street spaces computed separately for each use with the following factors divided into this sum.

	Retail	Office	Lodging
Residential	1.2	1.4	1.1
Lodging	1.3	1.7	-
Office	1.2	-	-

When more than 2 of the above uses share parking, the lowest factor shall be used. For multiple uses involving uses not mentioned above, the Zoning Administrator shall determine the appropriate reduction factor based on the specific characteristics of such uses.

4-J-8 Other Areas Not Used to Meet Requirements
Loading or other non-parking areas shall not be included to meet off-street parking requirements.

4-J-9 Computation of Requirements
The following rules shall apply to computation of off-street parking requirements:

4-J-9-a Fractional Spaces: Where requirements result in computations including fractional off-street parking spaces, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one space.

4-J-9-b Computing Number of Employees: Where requirements are based on number of employees, number shall be computed as the average number employed on the shift with the highest usual employment.

4-J-10 (3/2/2010) Off-Street Parking Standards
The following chart shows the minimum number of required off-street parking spaces. The maximum number of provided off-street parking spaces shall not exceed 150% of the minimum required.

<u>Use</u>	<u>Required Minimum Number of Off-street Parking Spaces</u>
<u>RESIDENTIAL USES:</u>	
Single and Two-Family	2 for each dwelling unit
Multi-Family	1.5 for each dwelling unit
<u>GROUP QUARTERS:</u>	
Assisted Living Facility	1 for each 2 beds
<u>TRANSIENT LODGINGS:</u>	
Inn and Bed and Breakfast	1.0 for each guest room

EDUCATIONAL USES:

Kindergarten, Day Care Center
Nursery, Private or Public 1 for each 8 students
based on maximum design capacity

Elementary, Intermediate, or
Junior High, Private or Public 1 for each 8 students
based on maximum design capacity

BUSINESS USES:

Retail Space
(Unless otherwise specified) 1 for each 250 square feet of floor
area

Furniture, Hardware, Home
Furnishings, Plant Nurseries and other
similar establishments 1 for each 400 square feet of floor
area or outdoor merchandise display
area

Vehicle Repair 2 for each repair bay, plus 1 for service
vehicle

Retail Space with Fuel Sales 1 for each 200 square feet of floor area

Vehicle Fuel Sales 2 standing spaces for each gasoline
pump

Restaurant 1 for each 100 square feet of floor
area or 1 for each 4 people based on
Building Code design capacity,
whichever is greater

Restaurant, Fast Food 1 for each 60 square feet plus 3
queuing spaces for drive-up window

Wholesale, Inventory
Storage not Otherwise
Classified 1 for each 2,000 square feet of floor
area devoted to enclosed storage

Mini-storage (rental of storage
units of less than 5,000 sq ft each) 1 for each employee

Architectural Woodworking
and Millwood 1 for each 500 square feet of floor area

CULTURAL, ENTERTAINMENT, AND RECREATIONAL USES:

Auditoriums, Assembly Halls, Community Centers

- Fixed Seats 1 for each 4 seats based on maximum seating
capacity

-Without Fixed Seats 1 for each 4 people based on Building Code
design capacity

Art Gallery, Library, Museum 1 for each 400 square feet of floor area

SPORTS ACTIVITIES:

Bowling	4 for each alley
Swimming Pools, Recreation Centers	1 for each 4 persons, based on design and Similar Establishments Building Code capacity
Skating Rinks	1 for each 25 persons based on Building Code design capacity
Health Clubs	1 per 250 square feet of floor area
Outdoor Court Games (Tennis, Basketball and Similar Establishments)	1 per 2 players based upon maximum player capacity

OFFICE USES:

General Business Govern Mental Buildings Professional Office Buildings but not including Medical Offices Financial Institutions Research and Development Establishments	1 for each 333 square feet of floor area
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MEDICAL USES:

Physician's or Dentist's Office, Clinic, and Out-Patient	1 for each 250 square feet of floor area
Veterinary Hospital	1 for each 300 square feet of floor area

SERVICES USES:

Barber, Beauty Salon	2 for each chair
Self-service Laundry	1 for each 2 cleaning or laundry machines
Dry-Cleaning Establishment	1 for each 200 square feet of floor area
Other	1 for each 200 square feet of floor area

INSTITUTIONAL USES:

Churches, Synagogues, Temples and Other Places of Worship; and Civic, Fraternal, Political, Private, Religious and Social Nonprofit Organizations	1 for every 4 seats in assembly room fixed seats or 1 for each 4 people based on Building Code design capacity of the assembly without fixed seats
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HANDICAPPED ACCESSIBLE SPACES:

1 for	1 to	25 total spaces provided
2 for	26 to	50 total spaces provided
3 for	51 to	75 total spaces provided
4 for	76 to	100 total spaces provided
5 for	101 to	150 total spaces provided
6 for	151 to	200 total spaces provided
7 for	201 to	300 total spaces provided
8 for	301 to	400 total spaces provided
9 for	401 to	500 total spaces provided
		2% of total for 501 to 1,000 total spaces provided
		20 plus 1 for each 100 spaces, if more than 1,000 total spaces provided

4-J-11 Off-Street Loading Space

4-J-11-a General

Off-street loading facilities shall be provided on the premises of any use hereafter established or enlarged which during the course of a normal operating week customarily receives or distributes goods or materials by trucks. There shall be sufficient spaces to accommodate the maximum number of such trucks that will normally be loading, unloading or stored on the premises at any one time.

4-J-11-b Construction Standards

All off-street loading spaces shall be covered with an all-weather surface, shall be graded and drained to dispose of surface water, and shall be constructed and maintained in a manner permitting safe and convenient use. No surface water from any loading area shall be permitted to drain onto adjoining property so as to change existing drainage patterns or so as to cause damage to adjoining property from any increased runoff.

4-J-11-c Location and Dimension Requirements

1. General: Loading spaces and maneuvering areas shall be appropriately dimensioned and located with relation to the type of deliveries and pick-ups anticipated. In no case shall the use of such loading space or related maneuvering hinder free movement of pedestrians or vehicles on streets or sidewalks. The following basic dimensional requirements for loading spaces and maneuvering areas shall apply except upon findings by the Zoning Administrator or described in Section 4-J-11-c-(2) below:
 - a. Minimum depth of the loading space shall be 55 feet;
 - b. Minimum width shall be 14 feet;
 - c. Minimum height clearance shall be 15 feet; and
 - d. Minimum width of maneuvering room for back in loading shall be 115 feet.
2. Exceptions: Upon findings by the Zoning Administrator, based on satisfactory evidence supplied by applicants, observation of similar uses in the general area, or standard reference works or recommendations by qualified officials of the Town that more or less off-street loading spaces, or off-street loading and maneuvering spaces with greater or lesser dimensions, will be required in connection with a proposed use, he may require or permit such variation from the basic requirements set forth herein.

- 4-J-11-d Prohibited in Required Yards
Except as otherwise specifically provided herein, no loading space shall be permitted in any required yard adjacent to a street, nor shall any maneuvering areas serving such spaces be so located.
- 4-J-11-e Limitations on Use
No required loading space shall be used for the sale, repair, dismantling, or serving of any vehicles, equipment, materials or supplies and no other loading area or other area on a lot shall be used for such purposes unless permitted by the district regulations.
- 4-J-11-f Other Areas Not Used to Meet Requirements
Off-street parking spaces or other non-loading areas shall not be included as meeting off-street loading space requirements.
- 4-J-11-g Computation of Requirements
In computing off-street loading requirements, where computations indicate fractional loading spaces, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one space.

4-J-12 Minimum Parking and Loading Space Requirements for Uses not Specified

Where minimum parking or loading space is not specified herein for particular uses, the Zoning Administrator shall determine requirements appropriate to use, guided by anticipated employment, number of residents and visitors, and by the anticipated need for off-street loading space. Appeals from any such determination shall be to the Board of Zoning Appeals.

4-J-13 Required Off-Street Parking and Loading Spaces to be Maintained

Where off-street parking and loading spaces are required by these regulations, no owner or occupant of any land or building shall discontinue, change or dispense with such facilities without establishing alternate facilities complying equally with the requirements of these regulations.

4-K NONCONFORMING LOTS, USES AND STRUCTURES

4-K-1 Intent

Within the districts established by this Ordinance, or amendments thereto, there may be lots, structures, or uses of land and/or structures that were lawful before this Ordinance was passed or amended but would not conform to regulations and restrictions under the terms of this Ordinance or future amendments thereto. It is the intent of the Ordinance to abide by the letter and spirit of the provisions of Title 15.2, Chapter 22, Article 7, Section 15.2-2307 of the Code of Virginia.

4-K-2 Existing Construction

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction pursuant to a legally issued permit, was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently,

provided such construction is completed within one year. For good cause shown, the Zoning Administrator shall have authority to extend said one year period for such period of time, as he may deem reasonable under the circumstances. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

4-K-3 Nonconforming Lots of Record

4-K-3-a General

In any district, permitted structures may be erected or enlarged on any lot which was a single lot of record on the effective date of this Ordinance, and which lot fails to meet the requirements for area or width, or both, which are applicable in the district. Yard requirements and requirements of this Ordinance, other than lot area and width requirements, shall be met on such lots for the erection of any new structure, or addition of any existing structure, unless a variance from such requirements is granted by the Board of Zoning Appeals. Where the lot of record is nonconforming because of width, the side yard requirement applicable to said lot shall be the side yard required under the Ordinance in effect on the date the plat of the lot was recorded, however, in no event shall the required side yard be less than five feet.

4-K-3-b Prohibition Against Creation of Other Lots Below Width and Area Requirements for District

No lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established by this Ordinance, nor shall any division be made which created a lot with width or area below the requirements stated in this Ordinance.

4-K-3-c Nonconforming Lots Created by Highway, Realignment, Condemnation, or Court Decree

Any lot reduced in size to an area less than that required by law by reason of realignment of a Federal or State highway, by reason of condemnation proceedings, or by reason of the decree or order of a Court of competent jurisdiction, shall be considered a nonconforming lot of record subject to the provisions of this Article.

4-K-3-d Damage or Destruction of Conforming Use and/or Structure

Should conforming use or structure located on a nonconforming lot be damaged or destroyed, the use or structure may be replaced within the limits of the original foundation area of the structure damaged or destroyed.

4-K-4 Nonconforming Uses of Land

4-K-4-a General

Where at the time of the effective date of this Ordinance, or any amendments thereto, lawful use of land exists which would not be permitted by this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following conditions:

4-K-4-b Conditions

1. Not Enlarged: No nonconforming use shall be enlarged, increased, or extended.
2. Not Moved: No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, or to any other lot which is not properly zoned to permit such use.
3. No Additional Nonconforming Uses: No additional uses of a nature, which would be prohibited generally in the district involved, shall be permitted.
4. Extension of Use in Existing Structure: Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside building.
5. Change to Another Nonconforming Use: Any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use, provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
6. Change to Permitted Use: When any non-conforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no non-conforming use shall thereafter be resumed.
7. Discontinuance of Use for More Than Two Years: If any nonconforming use of land is discontinued for any reason for a period of more than two years (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

4-K-5 Nonconforming Structures

4-K-5-a General

Where at the time of the effective date of this Ordinance, or any amendments thereto, lawful use of structures which would not be permitted by this Ordinance, the structure may remain so long as it remains otherwise lawful, subject to the following conditions:

4-K-5-b Conditions

1. Not Enlarged: No nonconforming structure shall be enlarged, increased, structurally altered, or extended in a manner that increases its nonconforming status.

(10/20/92)

2. Change to Permitted Structure: When any non-conforming structure is superseded by a permitted structure, the structure shall thereafter conform to the regulations for the district, and no nonconforming structure shall thereafter be resumed.

3. Destruction of Structure: Where non-conforming status applies to a structure, destruction of the structure shall terminate the nonconforming status unless repairs or

restoration is started within twenty-four months and completed within forty-eight months. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty percent of the replacement cost at time of destruction. No nonconforming structure shall be re-established after said destruction, unless the structure is restored or repaired within the time limits set forth above.

4. Unsafe Structures: If an nonconforming structure or portion of a structure, or a structure or a portion thereof containing a nonconforming use, becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the regulations of the district in which it is located.

4-K-6 Uses Eligible for Special Use Permits not Nonconforming Uses

Any use that is permissible as a special use in a district under the terms of this Ordinance (other than a change through Board of Zoning Appeals action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

4-K-7 Changes in District Boundaries

Whenever this Ordinance is amended to change the boundaries of any district, any lots, structures, or uses of land and/or structures that become nonconforming as a result of such change shall become subject to the provisions of this Article.

5 SPECIAL USE PERMITS

5-A GENERAL

Special Use Permits may be granted by the Town Council for any of the uses for which a permit is required by the provisions of this Ordinance.

5-B PROCEDURE

5-B-1 Application:

- 5-B-1-a Application for a Special Use Permit may be made by the record owner of the property, or contract owner with written approval of the record owner. If application is made by the contract owner, a copy of the contract shall be filed with and made a part of the application.
- 5-B-1-b Such application shall be filed with the Zoning Administrator and shall be accompanied by fifteen copies of the following:
 - 1. A site development plan in accordance with Article 6 of this Ordinance.
 - 2. Front, side, and rear elevations and floor plans of proposed buildings.
 - 3. The applicable filing fee.
- 5-B-1-c The Zoning Administrator may require such other information to be submitted as the Zoning Administrator deems necessary for a proper and intelligent consideration of the application.

5-B-2 Recommendation by Planning Commission

- 5-B-2-a **Public Hearing Requirements**
Upon receipt of the application and all required information, the Zoning Administrator shall refer same to the Planning Commission for consideration at the next regular monthly meeting.

The Planning Commission shall hold a public hearing on said application after giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 5-B-2-b Within one hundred days of the referral the application to the Planning Commission, at their next regular monthly meeting, the Planning Commission shall make a recommendation on said application to the Town Council. The recommendation of the Planning Commission may include recommendations for conditions to be applied to the Special Use Permit should it be granted by the Town Council.
- 5-B-2-c Before making a recommendation, the Commission may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed special use permit is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the specific findings listed in 5-B-4. The Commission may make any additional findings it may deem appropriate.

5-B-3 Action by Town Council

- 5-B-3-a **Public Hearing Requirements**
Public Hearing: Within one hundred days of receiving the recommendation of the Planning Commission, at their next regular meeting, and before action on the application for a Special Use Permit, the Town Council shall hold a public hearing on said application, after giving

public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.

- 5-B-3-b **Burden of Proof**
The burden of proof shall be on the applicant to show reasonableness of the proposed special use permit, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 5-B-4.
- 5-B-4-c Upon the granting of a Special Use Permit, one copy of the site development plan submitted with the application shall be certified by the Zoning Administrator and returned to the applicant, together with a statement in writing of the conditions, if any, imposed by the Council in granting the permit. The applicant shall use the property for the proposed use only in such manner as provided in the site development plan and only in accordance with the conditions, if any, provided by the Council.

5-B-4 **Criteria for Action on Special Use Permit**

Before taking action, the Council may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed special use permit is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the following specific findings. The Council may make any additional findings it may deem appropriate. The use requiring the special use permit:

- 5-B-4-a Will be consistent with the Comprehensive Plan of the Town.
- 5-B-4-b Will be consistent with the Purposes and Intent of this Ordinance.
- 5-B-4-c Will not have an undue adverse impact on the short-term and long-term fiscal resources of the Town of Boyce or Clarke County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be consistent with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.
- 5-B-4-d Will not cause an undue adverse effect on neighboring property values without furthering the goals of the Comprehensive Plan to the benefit of the Town.
- 5-B-4-e Will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.
- 5-B-4-f Will not cause destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.
- 5-B-4-g Will have sufficient water available for its foreseeable needs.
- 5-B-4-h Will not cause unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.
- 5-B-4-i Will not cause undue surface or subsurface water pollution.
- 5-B-4-j Will not cause an undue adverse effect on existing or proposed septic systems in adjacent areas.

- 5-B-4-k Will not cause unreasonable soil erosion.
- 5-B-4-l Will have adequate facilities to provide safety from flooding, both with respect to proposed structures and to downhill/downstream properties.
- 5-B-4-m Will not cause undue air pollution.
- 5-B-4-n Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.
- 5-B-4-o Will not cause a detrimental visual impact.

5-C REVOCATION

The Town Council may, by resolution, initiate the revocation of any active Special Use Permit. The consideration of the revocation shall proceed following the procedure set forth for approving a new Special Use Permit. Following a recommendation by the Planning Commission, the Council may revoke an active Special Use Permit for the following reasons:

1. Failure to establish or discontinuance of the approved Special Use. If the approved Special Use has not been established within two years of its approval or if it has been discontinued for one year, the Special Use Permit may be revoked. A Special Use Permit approved before [adoption date of ordinance] shall be eligible for revocation if it has not been established by [two years after the adoption date of ordinance] or if it has been discontinued for one year as of [one year after the adoption date of ordinance].
2. Repeated or continuing violations of the conditions placed on the Permit.
3. Fraudulent, false, or misleading information supplied by the applicant in applying for the Special Use Permit.

6 SITE DEVELOPMENT PLANS

6-A INTENT

The purpose of these requirements is to promote the orderly development of certain activities in the County and to insure that such activities are developed in a manner harmonious with surrounding properties and in the interest of public health, safety, and welfare. The site plan shall be used to review:

1. a project's compatibility with its environment;
2. the ability of proposed traffic circulation systems to provide for safe and convenient movement of vehicles and pedestrians;
3. the quantity, quality, utility, and type of the project's community facilities; and
4. the location and adequacy of the provision for drainage and utilities.

6-B WHEN REQUIRED

6-B-1 Requirements

A site plan shall be submitted in accordance with this article for all proposed buildings, structures, or uses, except single-family detached dwellings and agricultural buildings.

6-B-2 Change of Use

A site plan shall be submitted when a change of use of an existing structure requires additional parking or other significant external improvements.

6-C WAIVER OF REQUIREMENTS

6-C-1 Waivers for Hardship

Any requirement of this Section may be waived by the Agent where the waiver is not inconsistent with this Section, and the applicant establishes that an undue hardship would result from a strict enforcement of this Section, or that the requirement is unreasonable.

6-C-2 Waivers for Additions

The Agent may waive the requirements for site plan review for additions to buildings, structures, and uses, if in his/her opinion; such addition does not substantially affect the intent of this Section.

6-D ADMINISTRATION

6-D-1 Public Agency Comments

The Planning Commission may accept comments from the County of Clarke and other applicable public agencies when reviewing site plans.

6-D-2 Agent

The Planning Commission may act through the Town planning staff to the extent the Commission finds it appropriate for the administration of this Section; provided that no Agent may act for the Commission in approving, conditionally approving, or

disapproving any site plan. The Agent shall be responsible for the processing of site development plan applications, subject to the procedures provided herein.

6-D-3 Inspection

All government officers and employees responsible for the enforcement of this Section shall have the right to enter upon any property at all reasonable times during the period of construction for the purpose of making inspections for compliance with this Section. It shall be the responsibility of the developer to notify the Agent when each stage of the development is ready for inspection for compliance with the site plan as approved by the Commission. The developer shall make one set of the approved site plan available at the site at all times during construction.

6-E PROCEDURES

6-E-1 Pre-Application Conference

All applicants shall first submit a sketch plan and request a pre-application conference with the Agent to discuss the basic site development scheme, basic ordinance requirements, and preliminary features of the proposed development as they relate to this Section.

6-E-2 Application

- 6-E-2-a Application for approval of a site development plan shall be made to the Agent by submitting an application form, fifteen copies of the site plan, and the applicable fee.
- 6-E-2-b Application for approval of a site plan shall be submitted at least 15 working days before the next regular meeting of the Planning Commission at which consideration is expected.
- 6-E-2-c The Agent shall review the submitted materials to determine if the basic requirements of this Section have been met. If in conformance, the application shall be accepted for filing, and shall be forwarded to the Planning Commission.
- 6-E-2-d The Agent shall forward copies of the site plan for all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Agent shall prepare a report for the Planning Commission.
- 6-E-2-e The site plan and accompanying materials shall be available for public review in the Boyce Town Offices.
- 6-E-2-f In addition to the fee set by the Town Council, the Council may require the applicant to bear the costs of any extraordinary professional services employed by the Planning Commission in reviewing the site plan.

6-E-3 Action on Site Plan Application

6-E-3-a

Time Period

After receiving a complete application from the Agent, the Planning Commission shall consider the application at the next regular monthly meeting. Within one hundred days of this first meeting, the Planning Commission shall act to approve, approve with conditions, or deny the site plan. Failure of the Planning Commission to act within this 100-day period shall be deemed approval of the site plan unless the Planning Commission and the applicant agree upon an extension of the time period.

6-E-4 Public Notice and Hearings

The Planning Commission shall provide public notice and hold public hearings on the site plan request. Such public hearing shall be held in accordance with the requirements of Section 10-E of this ordinance.

6-E-5 Action by the Planning Commission

6-E-5-a

The Planning Commission shall approve the site plan if it finds that the plan meets the requirements of this Section, the intent of the Boyce Town Comprehensive Plan, and would promote the health, safety, and general welfare of the public.

6-E-5-b

The Planning Commission may condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be stated in writing by the Planning Commission.

6-E-5-c

The Planning Commission may deny a site plan, stating in writing the reasons for such denial.

6-E-5-d

Applications for the same or substantially similar site development plan shall not be accepted or considered for all or any part of property for which a site development plan has been denied by the Planning Commission for 12 months following such denial. Such application shall address, at a minimum, those criteria that were cited as the basis of denial.

6-E-6 Appeal

Any applicant may appeal the decision of the Planning Commission by filing within 30 days of the decision of the Planning Commission an appeal in writing to the Boyce Town Council.

6-E-7 Site Plans Submitted with Special Use Permit Applications

Where a site plan is submitted with a Special Use Permit application as required in Section 5 of this Ordinance, the action of the Planning Commission shall be in the form of a recommendation to the Town Council. The Town Council shall then consider the site plan in conjunction with the Special Use Permit request, as outlined in Section 5.

6-E-8
(1/06/09)

A Site Plan shall become null and void if it is not submitted, in a form complying with all conditions established by the Planning Commission, to the Town Planning Commission Chair and Town Zoning Administrator for signature within six months from the date if

approved by the Town Planning Commission. The Planning Commission may extend this time limit upon written request of the property owner.

6-E-9
(1/06/09)

An approved final site plan shall be valid for not more than five years from the date the Planning Commission Chair signs a final version of the Site Plan that complies with any conditions set by the Planning Commission in its approval action, if a final certificate of occupancy has not been issued for the structures shown on the Site Plan. Upon application of the developer, filed before expiration of a final site plan, the Planning Commission may grant one or more extensions of such approval for additional periods as the Commission, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

- a. whether a building permit has been issued,
- b. whether substantial construction work has been completed,
- c. the size and phasing of the proposed development, and
- d. the laws, ordinances and regulations in effect at the time of the request for an extension.

6-F SPECIFICATIONS

Every site plan shall be prepared in accordance with the following specifications:

6-F-1

The scale shall be one inch equals not more than 50 feet.

6-F-2

All site plans shall be submitted on 24 by 36 inch sheets.

6-F-3

If the site plan is on more than one sheet, match lines shall clearly indicate where the sheets join.

6-F-4

Horizontal dimensions shall be in feet and decimals of feet to the nearest 1/100 of a foot.

6-G CONTENTS

Qualified persons shall prepare the site plan or any portion thereof involving engineering, urban planning, landscape architecture, architecture or land surveying. Site plans shall be certified by seal and signature of an architect, engineer, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall contain the following information, as applicable:

6-G-1

The proposed title of the project and the name of the engineer, architect, landscape architect or surveyor; the name of the developer; name and address of the property owner.

6-G-2

A signature area for approvals by the chair of the Planning Commission and the Agent.

6-G-3

Signature of the property owner.

6-G-4

North point, scale, and date.

6-G-5

Vicinity map at a scale of one inch equals not more than 2,000 feet, showing the location of the project in relation to state roads and other prominent features.

6-G-6

Existing zoning and zoning district boundaries for the property in question, and on immediately surrounding properties.

- 6-G-7 The present owner and use of all properties contiguous or directly across any street.
- 6-G-8 The boundaries of the property involved by bearings and distances, certified by a land surveyor licensed to practice in the Commonwealth of Virginia.
- 6-G-9 All existing property lines, existing streets, buildings, watercourses, waterways, lakes, and other existing physical features on or adjoining the property. Size and height of existing buildings on the property should be shown. Features on adjoining properties need only be shown in approximate scale and proportion.
- 6-G-10 Topography of the project area with contour intervals of two feet or less.
- 6-G-11 Location and sizes of sanitary and storm sewers, gas lines, water lines, culverts, fire hydrants, and other above-ground or underground structures in or affecting the project, including existing and proposed facilities, and easements for these facilities.
- 6-G-12 The location, dimensions, name, and construction details (including typical sections) of proposed streets, alleys, driveways, and the location, type, and size of ingress and egress to the site. When proposed streets intersect with existing streets, both edges of existing pavement or curb and gutter must be indicated for a minimum of 50 feet or the length of connections, whichever is greater.
- 6-G-13 The location of all off-street parking, loading spaces, and walkways, indicating types of surfacing, size and angle of stalls, width of aisles, and a schedule showing the number of parking spaces.
- 6-G-14 The location, height, type, and material of all fences, walls, screen planting, and landscaping details of all buildings and grounds, and the location, height, and character of all outdoor lighting systems.
- 6-G-15 The location of all proposed buildings and structures, primary and accessory; number of stories and height; proposed general use of each structure; and the number, size, and type of dwelling units, where applicable.
- 6-G-16 Provision for the adequate disposition of natural and storm water indicating the location, sizes, types, and grades of ditches, catch basins, detention ponds (showing 10-year and 100-year elevations), and pipes and connections to existing drainage systems. Plans shall be in accordance with the Boyce Comprehensive Plan.
- 6-G-17 Provisions, plans and schedule for the adequate control of erosion and sediment, in accordance with the Clarke County Erosion and Sediment Control Ordinance.
- 6-G-18 Proposed finished grading by contour, supplemented where necessary by spot elevations.
- 6-G-19 Flood plain studies as required by the Agent.
- 6-G-20 The location, size, height, materials used, orientation, and illumination of proposed signs.

- 6-G-21 The location, dimensions and total area of proposed recreation, open space, and required amenities and improvements.
- 6-G-22 The location of all wooded areas on the site, including individual large trees that are located within the areas proposed for clearing and within 20 feet of the proposed clearing limit. The site plan shall show which trees are to be retained and which are to be removed.
- 6-G-23 A landscape plan (same scale as site plan), meeting the minimum landscape design standards described below.
- 6-G-24 Development sequence for phased construction, if applicable.
- 6-G-25 Building restriction lines.
- 6-G-26 Distance to nearest school or school site.
- 6-G-27 Elevation plans for all exterior facades of proposed structures, showing design features and indicating materials and colors to be used.
- 6-G-28 Source of title of the owner of record, including deed book and page reference of the last instrument in the chain of title.
- 6-G-29 Total site acreage; acreage of individual lots and street rights-of-way.
- 6-G-30 Location and acreage to the nearest 0.1 acre of critical environmental areas, including the following: slopes between 15%-25%; slopes greater than 25%; rock outcroppings; sinkholes; flood plains and flood plain soils; current drainage channels; bodies of water; stormwater management facilities; utilities; other sensitive areas defined by the Agent. The Agent may require that a geotechnical report be submitted where warranted by soil or water conditions.
- 6-G-31 Floor area ratio (FAR) and impervious surface coverage for all structures on the property.
- 6-G-32 Maximum number of employees anticipated, if commercial or office.
- 6-G-33 Anticipated daily and peak water demand and sewage flows for the site.
- 6-G-34 Anticipated daily vehicle trips generated by the site development; capacity of existing and proposed streets; sight distances for all intersections; proposed improvements within existing street rights-of-way; further traffic studies as required by the Agent.
- 6-G-35 A copy of rezoning proffers, Special Use Permit conditions or variances granted for the property shall be submitted with the site plan.
- 6-G-36 Bond estimates for all required improvements.
- 6-G-37 Any necessary notes required by the Agent to explain the purpose of specific items on the plan.
- 6-G-38 Additional information as deemed necessary by the Planning Commission or the Agent.

6-H IMPROVEMENTS AND MINIMUM STANDARDS

- (4-3-01) To further the intent of this Section and to protect public safety and general welfare, no site plan shall be approved until the Planning Commission is assured that improvements will be made which meet the following minimum standards:

6-H-1 Streets and Rights-of-Way

- 6-H-1-a Streets, driveways, access roads and rights-of-way shall be constructed and dedicated, and existing streets widened and improved as necessary, when the need for such streets and improvements is generated by the proposed development, or is indicated in the Boyce Town Comprehensive Plan.
- 6-H-1-b All street construction standards and geometric design standards shall be in accord with the standards of the Boyce Town Subdivision Ordinance, the Virginia Department of Transportation, or other standards provided by the Town. However, the Authority or the Agent may modify standards for local, collector, and minor loop streets provided that off-street parking sufficient to accommodate required parking ratios are provided to complement the street system, and approval of the modifications is obtained from the Virginia Department of Transportation, where applicable.
- 6-H-1-c All development must have direct access to public dedicated and State or Town-maintained roads. Sites or lots shall not have direct access to any arterial road, unless the physiography, shape or size of the tract precludes other methods of access.
- 6-H-1-d Where traffic generated from an entire development exceeds 2,000 vehicle trips per day, such development shall provide connectors to existing public roads at two or more locations. Where only one connection is physically achievable, the connecting portion of the entrance road must be a four-lane divided road extending not less than 250 feet into the development. No internal vehicular connection shall be permitted on this entrance section.
- 6-H-1-e Streets and rights-of-way shall permit access to adjoining properties in conformance with the Boyce Town Comprehensive Plan and to the satisfaction of the Planning Commission or the Agent.
- 6-H-1-f Travel ways designed for on-site two-way vehicular traffic circulation shall in no case have a pavement width of less than 20 feet.
- 6-H-1-g Cul-de-sacs shall be designed and constructed in accordance with the street standards of the Boyce Town Subdivision Ordinance, or with other standards provided by the Town of Boyce. Cul-de-sacs may not be used as parking areas.

6-H-2 Parking

Parking areas shall be constructed to standards compatible with those of the adjoining public street, and shall be provided in quantity according to the schedule set forth in the Boyce Town Zoning Ordinance. Off-street parking spaces shall be accessed via private travel ways, and not directly accessed from public rights-of-way.

6-H-3 Sidewalks, Paths, and Walkways
Sidewalks, paths, and/or walkways shall be provided to enable the public to walk safely and conveniently from one building to another on the site, to and from adjacent sites, and to and from sidewalks in the public right-of-way. The construction material to be used must meet the approval of the Planning Commission or the Agent.

6-H-4 Curb and Gutter
Curb and gutter (CG-6 or approved equivalent) shall be required on all new public streets. The Planning Commission may require curb and gutter on off-street parking areas, service drives, private streets, and around medians, where warranted by conditions. Upon recommendation from the Virginia Department of Transportation, the Planning Commission may waive the requirement for curb and gutter when in keeping with existing conditions on adjacent sites, and when safe travel and adequate stormwater management can be assured without curb and gutter.

6-H-5 Utilities and Utility Easements
All utilities necessary to serve the proposed development shall be installed by the developer, and shall be installed underground in accordance with the appropriate facilities plans; provided however, that:

6-H-5-a Equipment such as electric distribution transformers, switch gear, meter pedestals and telephone pedestals, which are normally installed aboveground, may continue to be so installed;

6-H-5-b Meters, connections, and similar equipment normally attached to outside walls, may be so installed;

6-H-5-c Dedications of right-of-way easements shall be made for all utilities and facilities that are to be publicly maintained. Easements shall be clearly defined for the purpose intended. Minimum easement widths shall be as specified by the Planning Commission, the Agent, or utility company.

6-H-6 Water and Sewer Systems
All water distribution and sewer collection systems shall be designed to accommodate normal and peak demand loads. All such systems shall be designed to meet or exceed the specifications of the Clarke County Sanitary Authority. Regulations of the Virginia Department of Health and other state agencies shall also be met, as applicable.

6-H-7 Stormwater Management
6-H-7-a Stormwater management facilities shall be provided in conjunction with land development activities, which require the submission of a Site Plan. An evaluation shall be performed for each proposed land development project in accord with Boyce Town Code Section 152. Stormwater Management.
(4/3/01)
(4/5/11)

6-H-8 Soil Suitability
The U.S. Department of Agriculture, Soil Conservation Service, shall be referred to for commenting on the suitability of soils for intended development, and on any special measures that are recommended for development on a certain soil classification. The applicant shall provide a generalized mapping of on-site soils and their engineering characteristics.

6-H-9 Landscaping Design Standards

6-H-9-a Purpose and Intent

The purpose of this article is to:

1. Provide for the protection of ground water, improve air quality and stormwater management through the mitigating effects of trees;
2. Preserve property values and retain the character of an area in a way that is conducive to economic development;
3. Make incompatible land uses less disagreeable by requiring screening in order to minimize the harmful impact of noise, dust and vehicle headlight glare.
4. Require landscaping of parking lots to reduce the harmful effects of wind, heat, noise and vehicle headlight glare;
5. Improve the aesthetic appearance of commercial, industrial and residential areas to help create an attractive and harmonious community;
6. Provide for site development protecting the health safety and welfare of the public and in conformance with zoning regulations as allowed in §15.2-2283 & 15.2-2286 of the Code of Virginia; and
7. Provide for preservation, planting, and replacement of trees in the development process to meet the objectives of §15.2-960 & 961 of the Code of Virginia, as amended.

6-H-9-b Existing Trees

1. Existing trees, with the following characteristics, should be preserved, but may be replaced as noted in section 3 below:
 - a. have a diameter of eight inches or greater (measured 4.5 feet above the ground);
 - b. be a native species;
 - c. be in a healthy condition; and
 - d. be located on the subject property within two years before site plan application.
2. Preservation shall be accomplished by maintaining current grade and installing a temporary four-foot high fence during site disturbance for the circular area centered on the tree with a diameter 1.5 times the canopy spread.
3. Replacement trees may be shown on the site plan for existing trees, as described above. Replacement trees shall be Large Canopy trees meeting the specifications

of Section 6-H-9-e below. The total caliper of replacement trees shall equal or exceed the total caliper of existing trees being removed up to a maximum of four replacement trees per acre of the subject property. Existing or replacement trees shall not be considered buffer or parking trees.

6-H-9-c

Buffer-areas. Buffer-areas provide for plant material screening between adjacent land uses and along public rights of way. The buffer-areas are required to run the length of adjacent property boundaries and public rights of way. Buffer-areas shall not be used for buildings, the storage of materials, or vehicular parking. Except for mulched areas adjacent to plant material, buffer-areas shall have a living ground cover.

1. The minimum Buffer-area widths are provided in the matrix below:

Zoning District of Proposed Use	Existing Zoning of Adjacent Parcels		Public ROW
	Residential & Agricultural	Business	
Residential	N/A	15 feet	5 feet
Business	15 feet	N/A	5 feet

2. Screening

a. Quantity: Plant material is required per square foot of buffer-area as listed below:

	Buffer areas less than 15 feet wide	Buffer areas 15 feet and wider
Large Canopy Tree	1/250 square feet and	1/450 square feet or
Small Canopy Tree	1/500 square feet and	1/450 square feet and
Evergreen Tree	none required	1/150 square feet and
Shrub	1/25 square feet	1/50 square feet

- b. Utility Lines: Small Canopy Trees shall be substituted for Large Canopy Trees where buffer-areas are under and parallel to overhead utility lines. In other buffer-areas, Small Canopy Trees should be used whenever trees are placed under overhead utility lines.
- c. Utility Lines: Small Canopy Trees shall be substituted for Large Canopy Trees where buffer-areas are under and parallel to overhead utility lines. In other buffer-areas, Small Canopy Trees should be used whenever trees are placed under overhead utility lines.
- d. Screening of Parking Areas: Shrubs should be placed to screen parking areas from public rights of way.
- e. Commercial or Industrial Buffer-areas: Based on site characteristics, buffer-areas for commercial or industrial uses adjacent to Residential or Agricultural zoning districts may be required to include fences or walls with a minimum height of six feet.
- f. Screening of Outdoor Storage Areas: All outdoor storage areas shall be screened from all public streets and adjacent properties. Screening shall be comprised of fences or walls with a minimum height of six feet.
- g. Fence and Wall Materials: Fences and walls used for screening shall be solid and should be the same material as the primary site structure. Use of chain link, plastic, fiberglass, and plywood is discouraged.
- h. Additional Plant Material: Wherever possible, installation of additional plant material, including annuals and perennials, is encouraged to maximize the

attractiveness and value of a property.

6-H-9-d

Parking Trees

Trees shall be provided in parking areas, in addition to required buffer-area trees. The requirements of this section shall apply to the construction or enlargement of any parking lot containing eight or more spaces.

1. One large canopy tree is required for every eight parking spaces.
2. A landscape island for each large canopy tree shall be not less than three hundred square feet of permeable, unpaved area, and have a minimum width of nine feet.
3. Landscape areas within the parking lot shall be reasonably dispersed throughout the parking lot.
4. Except for mulched areas adjacent to plant material, landscape islands shall have a living ground cover.

6-H-9-e

Plant Material Type and Location Specifications

1. Schedule: All plans shall contain a schedule of plants proposed, indicating the number proposed, caliper or gallon size, and both common and botanical names.
2. Condition: All plant material shall comply with the American Standard for Nursery Stock (ANSI Z60.1-1996). All plants shall be well formed, vigorous, healthy and free of disease, sunscald, windburn and insects or their eggs.
3. Diversity: No single species of tree or shrub shall comprise more than 1/3 of the total number of trees or shrubs to be planted.
4. Sight Distance: No tree, shrub, hedge or existing vegetation shall be planted or maintained in a way that interferes with prescribed sight distances.

5. Minimum Caliper/Size

- | | |
|----------------------|----------------------|
| a. Large Canopy Tree | Two inches |
| b. Evergreen Tree | Six feet tall |
| c. Small Canopy Tree | Six feet tall |
| d. All Shrubs | Eighteen inches tall |

(Caliper is measured six inches above the soil on trees up to three inches in caliper, and twelve inches above the soil on trees greater than three inches in caliper.)

6. Planting: All plant material shall be installed in accordance with good trade practices. Trees shall be planted at least ten feet apart. The Standardized Landscape Specifications for the Commonwealth of Virginia will serve as the basis for minimum acceptable plant installations (Plates 1 and 2). The Zoning Administrator or designee shall be notified seventy-two hours prior to plant installation. The Zoning Administrator will schedule a site visit to inspect all plant material to confirm minimum standards. Upon inspection the Zoning Administrator may reject any plant material due to non-conformance.

(7/7/09)

7. Selection: Disturbed areas not covered by paving, stone, or other solid materials shall be revegetated with plant species that are compatible with the natural vegetation and tree cover and that have low water and nutrient requirements. Xeriscape practices (use of native plant materials and landscape materials that have low water and nutrient requirements) shall be followed. All trees and shrubs will be based on their listing in the Manual of Woody Landscape Plants, fifth edition.

- a. Large Canopy Trees shall:

1. have a mature height over forty-five feet as described in the Manual of Woody Landscape Plants;
 2. be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;
 3. be typical of, but not limited to Maples or Oaks;
 4. not include: Female Ginkgo (*Ginkgo biloba*), Poplar (*Populus spp.*), Silver Maple (*Acer saccharinum*), Tree of Heaven (*Ailanthus altissima*) or Black Locust (*Robinia pseudoacacia*).
- b. Small Canopy Trees shall:
1. have a mature height up to thirty feet, with an equal spread as described in the Manual of Woody Landscape Plants;
 2. be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;
 3. be typical of, but not limited to Flowering Crabapple (*Malus sp.*) or Redbud (*Cercis canadensis*);
 4. not include Bradford Pear (*Pyrus calleryana*).
- c. Evergreen Trees shall:
1. have a mature height of at least ten feet as described in the Manual of Woody Landscape Plants;
 2. be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;
 3. be typical of, but not limited to American Arborvitae (*Thuja occidentalis*), American Holly (*Ilex opaca*), or upright Juniper (*Juniperus sp.*).
- d. Shrubs shall:
1. include evergreen varieties for at least 50% of the shrubs planted;
 2. have a mature height of at least three feet as described in the Manual of Woody Landscape Plants;
 3. be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;
 4. be typical of, but not limited to Inkberry (*Ilex glabra*), Sweet shrub (*Claycanthis floridus*), Juniper (*Juniperus sp.*), and Cherry laurel (*Prunus caroliniana*).

6-H-9-f

Enforcement

The enforcement of this Ordinance shall be the responsibility of the Zoning Administrator or designee. The final Certificate of Occupancy shall not be signed until all trees, shrubs and screening material required by this Ordinance are installed and verified by the Zoning Administrator.

6-H-9-g

Maintenance Standards

The owner or their agent shall be responsible for the general maintenance of all landscape areas as defined as such areas as parking lot landscape islands, screening and street trees.

1. These areas shall be annually mulched to prevent weed growth and to retain soil moisture.
2. Plant material shall be pruned to maintain healthy and vigorous growth. All pruning shall be performed in accordance with American National Standards

Institute ANSI A300-1995, Tree, Shrub and Other Woody Plant Maintenance-Standard Practices, such that no trees are topped or large stub cuts are made.

- (7/7/09)
3. All turf areas shall be mowed.
 4. Watering shall be carried out as part of the initial installation of plant material to prevent plant loss. Public water or groundwater should not be used to irrigate plant material more than one year after its installation. Permanent irrigation facilities may be installed. Rain catchment systems should be the water source for such facilities. Such a rain catchment system shall be adequately sized to provide the amount of water likely to be used (a function of site design and the projected length of time without rain).
 5. The property owner or their agent shall maintain any plant material required by this Ordinance and any plant material that dies must be replaced in kind or with a suitable substitute as granted by Zoning Administrator. Preserved existing trees that subsequently die shall be replaced by new trees (as specified in the Existing Trees section 6-H-10-b).

6-H-9-h Protection of Public Trees

All publicly owned property that contains trees shall be protected from construction of any building, structure, or street work by maintaining current grade and installing a four foot high fence during site disturbance for the circular area centered on the tree with a diameter 1.5 times the canopy spread. Public trees that die because they were not protected from construction shall be replaced by the property owner with trees similar in size, variety, and location approved by the Zoning Administrator.

6-H-10 Outdoor Lighting Standards

(7/7/09)
(10/5/10)

The purpose and intent of this section is to establish outdoor lighting standards that reduce the impacts of glare, light trespass and over-lighting, promote safety and security, and encourage energy conservation.

6-H-10-a General Outdoor Lighting Standards (8/15/06)

(10/5/10)

1. All exterior light fixtures shall be of a type that are downcast and shielded such that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. Such light fixtures shall have flat cut-off lenses or equivalent. The lenses of lights mounted into eaves or canopies shall be mounted so as to be flush or recessed. The direct light from exterior light fixture elements shall not be visible off the subject property.
2. Pole mounted lighting fixtures shall not be taller than 25 feet above the finished grade as measured from the bottom of the fixture. Wall mounted lighting fixtures shall not be higher than 12 feet above the finished grade as measured from the bottom of the fixture.
3. Flashing, revolving, intermittent, or high intensity beams used for exterior lighting shall be prohibited.
4. Up-cast Lighting used to illuminate flags, signs, landscaping, buildings, or other objects and structures shall have directional control shields to prevent stray lighting and to ensure that no light source is visible from or causes glare on public right-of-ways or adjacent properties and shall be limited to 150 watts or less standard incandescent light elements or equivalent brightness (defined as 2500 lumens).
5. All exterior lighting shall be oriented not to direct glare or excessive illumination on streets in a manner that may distract or interfere with the vision of drivers on such roads and streets.
6. All canopy lighting shall be recessed and flush mounted. That portion of the canopy not included in the sign area shall not be illuminated.
7. Photometric Plan Requirements
 - a. A photometric lighting plan shall be submitted and approved in conjunction with any required site plan. The photometric lighting plan shall be certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a Virginia licensed professional engineer, or architect.

- b. All such plans shall include the following:
 - 1. Plans indicating the location on the premises of all lighting fixtures, both proposed and existing on the site, including a schematic layout of proposed outdoor lighting fixture locations that demonstrate adequate intensities and uniformity, and light coverage resulting from the proposed light layout.
 - 2. Description of all lighting fixtures, both proposed and existing, which shall include but are not limited to catalog cuts and illustrations by manufactures that describes the equipment, including lamp types, wattage and initial lumen outputs, glare control devices, lamps, proposed placement of all fixtures, including engineering detail of fixtures, manufacturer, model and installation of same.
 - 3. Photometric data, such as that furnished by manufacturers, or similar, showing the angle cut-off light emissions and glare control devices.
 - 4. Lighting levels for exterior lighting shall not exceed the following standards:
 - a. 2.5 foot-candles for parking lots.
 - b. 5 foot-candles at entrances from local rural/urban road entrances.
 - c. 10 foot-candles along fronts of buildings, at loading docks, and at entrances from primary highways and rural/urban arterials and collectors.
 - d. A uniformity ratio of 4:1 shall be provided across all parking lots, travelways, and private/public streets and roads. The project site shall be modeled with all lighting (building, canopy, parking, etc.) in operation.
 - e. Lighting levels shall not exceed 0.2 foot-candles at any common property line.
 - f. The first three measurements shall be made at the ground surface. The fourth measurement shall be made on a vertical face with the property line at five feet above the ground.
8. Lighting Definitions
- a. Candela – The system of luminous intensity. One candela is one lumen per candle (steradian).
 - b. Foot-Candle – A measure of light falling on a surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. Foot-candle measurements shall be made with a photometric light meter with a specified horizontal orientation.
 - c. Foot-Candle (Average Maintained) – The average of a number of points of foot-candle calculations or foot-candle readings in a given area which have been adjusted to account for maintenance which includes luminaire dirt depreciation and lamp lumen depreciation.
 - d. Glare – The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.
 - e. Lighting Fixture – A complete lighting unit consisting of the lamp, lens, optical reflector, housing and electrical components necessary for ignition and control of the lamp, which may include ballast started and/or photo control.
 - f. Lighting fixture, full cut-off – A lighting fixture from which a luminaire has zero candela intensity occurring at or above an angle of 90° above nadir.
 - g. Light fixture, recessed canopy – An outdoor lighting fixture recessed into a canopy ceiling so that the light source is either completely flush or recessed within the underside of the canopy.
 - h. Light Trespass – Unwanted light going beyond the property line and spilling over onto the adjacent or neighboring property. It can also represent the direct light (glare) that reduces a person's vision or ability to see.
 - i. Luminaire – A complete lighting unit consisting of a lamp or lamps and the parts designed to distribute the light, to position and protect the lamp(s), and to connect the lamp(s) to the power supply.
 - j. Nadir – The angle pointing directly downward from the luminaire.

An erosion and sediment control plan for the entire disturbed area of a development shall be prepared in accordance with the Clarke County Erosion and Sediment Control Ordinance, and must receive the approval of the Lord Fairfax Soil & Water Conservation District Board.

- 6-H-12 Miscellaneous Design Criteria
All other criteria and specifications shall be in accordance with Town standards, where provided. Where Town standards are not provided, the Planning Commission shall provide those standards or shall rule upon the standards proposed by the developer.

6-I CONSTRUCTION AND BONDING

No site improvement activities may occur unless all of the following have been met:

- 6-I-1
6-I-1-a Approval of final site plan and erosion and sediment control plan.
- 6-I-1-b Approval of erosion and sediment control bond, and installation of erosion and sediment control measures.
- 6-I-1-c Posting of construction bond.
- 6-I-2 All improvements required by this Section shall be installed at the cost of the developer, except where cost sharing or reimbursement agreements between the Town and the applicant are appropriate; the same to be recognized by formal written approval prior to site plan approval.
- 6-I-3 The approval of a site plan and/or the installation of improvements shall not obligate the Town to accept the improvements for maintenance, repair, or operation. Acceptance shall be subject to Town and/or State regulations, where applicable, and dependent on the satisfactory nature of the improvements.
- 6-I-4 The applicant is required to post a bond or other acceptable surety covering the construction and satisfactory completion of all required on-site and off-site public improvements.

6-J REVISIONS

The Agent may administratively approve changes to an approved site plan that the Agent determines are minor revisions, complying with all provisions of this Section and having no additional adverse impact on public facilities or adjacent properties. The Planning Commission shall consider major revisions.

6-K TERMINATION AND EXTENSION

An approved site plan shall expire and become null and void if a building permit for approved development is not issued within five years from the date of site plan approval. The Planning Commission or the Agent may grant a one-year extension upon written request.

6-L BUILDING PERMITS

For all properties and uses subject to this Section, no building permit shall be issued to construct or alter any structure, or authorization granted to improve land, until a site plan has been approved.

7 APPEALS, VARIANCES, INTERPRETATIONS, AND MODIFICATIONS

(12/4/07)

7-A APPEALS, VARIANCES, AND ZONING MAP INTERPRETATION

7-A-1 Board of Zoning Appeals

There shall be established a Board of Zoning Appeals (Board) that shall consider appeals, variances, and zoning map interpretations.

7-A-1-a Membership

The Board shall consist of either five or seven residents of the Town of Boyce, appointed by the Circuit Court of Clarke County. Members of the Board shall hold no other public office in the locality except that one may be a member of the Boyce Town Planning Commission.

7-A-1-b Officers

With the exception of its secretary and the alternates, the Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The Board may elect as its secretary either one of its members or a qualified individual who is not a member of the Board, excluding the alternate members. A secretary who is not a member of the Board shall not be entitled to vote on matters before the Board.

7-A-1-c Alternate Members

The Boyce Town Council may request the Circuit Court of Clarke County to appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chair twenty-four hours prior to the meeting of such fact. The chair shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

7-A-1-d Terms of Office

The terms of office for members of the Board shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the Board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

7-A-1-e Quorum

(3/2/2010)

For the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board.

7-A-1-f Procedures

The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth.

- 7-A-1-g Record
The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.
- 7-A-1-h Employees
Within the limits of funds appropriated by the Town Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- 7-A-1-i Compensation
Members of the Board may receive such compensation as may be authorized by the Town Council.
- 7-A-1-j Removal
Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days notice.
- 7-A-1-k Meeting Schedule
The Board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with Virginia Code Section 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.
- 7-A-2 Administrative Appeal
- 7-A-2-a The Board shall hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.
- 7-A-2-b An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to Virginia Code Section 15.2-2286. Any written notice of a zoning violation or a written order of the Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

- 7-A-2-c An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.
- 7-A-2-d In no event shall a written order, requirement, decision or determination made by the Zoning Administrator or other administrative officer be subject to change, modification or reversal by any Zoning Administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the Zoning Administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.
- 7-A-2-e The Board shall fix a reasonable time for the hearing of an application for appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within 90 days of the filing of the application for appeal.
- 7-A-2-f In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from.
- 7-A-2-g The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.
- 7-A-2-h The Board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the board and shall be public records.
- 7-A-2-i The chair of the Board, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses.
- 7-A-2-j Such hearing and decision shall occur after public notice and hearing as provided by Virginia Code Section 15.2-2204 is provided. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.
- 7-A-3 Variance
Members of the BZA shall hold no other public office in the Town except that one member may be a member of the Planning Commission.
- 7-A-3-a The Board shall authorize, upon appeal or original application in specific cases, variance from the terms of this ordinance. A variance is a reasonable deviation from those provisions of this ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a

variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. A variance shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

Before authorizing a variance, the Board shall find that:

7-A-3-b

(3/2/2010)

1. such a variance will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, and
2. either:
 - a. a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property, or
 - b. the granting of the variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance, and
3. the strict application of the ordinance would produce undue hardship; and
4. the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
5. the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance, and
6. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

7-A-3-c

Any property owner, tenant, government official, department, board or bureau may make an application for a variance. Applications shall be made to the Zoning Administrator in accordance with rules adopted by the Board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board who shall place the matter on the docket to be acted upon by the Board.

7-A-3-d

The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.

7-A-3-e

The Board will not consider substantially the same application within one year of previous Board action.

7-A-3-f

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

7-A-3-g No variance shall be authorized except after public notice and hearing as required by Virginia Code Section 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7-A-4 Zoning District Map Interpretation

The Board shall hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Virginia Code Section 15.2-2204, the Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail. The Board shall not have the power to change substantially the locations of district boundaries as established by ordinance. Any member of the BZA shall disqualify himself from voting or participating in any matter before the Board where disqualification would be required by Section 2.1-352, Code of Virginia.

7-A-5 Not Empowered to Rezone Property

No provision of this section shall be construed as granting the Board the power to rezone property or to base Board decisions on the merits of the purpose and intent of local ordinances duly adopted by the Board of Supervisors.

7-B MODIFICATIONS

7-B-1 The Zoning Administrator may grant a modification from any provision contained in the Zoning Ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements, if the Administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.

7-B-2 Before the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice.

7-B-3 The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph.

7-B-4 The decision of the Zoning Administrator may be appealed to the Board as provided by this section. Decisions of the Board may be appealed to the Circuit Court as provided by this section.

7-C CERTIORARI TO REVIEW DECISION OF BOARD

- 7-C-1 Any person or persons jointly or severally aggrieved by any decision of the Board, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition specifying the grounds on which aggrieved within 30 days after the final decision of the Board.
- 7-C-2 Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.
- 7-C-3 The Board shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- 7-C-4 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- 7-C-5 In the case of an appeal from the Board to the Circuit Court of an order, requirement, decision or determination of a Zoning Administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to Virginia Code Section 15.2-2286, the decision of the Board shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the Board that the Board erred in its decision. Any party may introduce evidence in the proceedings in the court.
- 7-C-6 In the case of an appeal by a person of any decision of the Board that denied or granted an application for a variance, the decision of the Board shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the Board applied erroneous principles of law, or where the discretion of the Board is involved, the decision of the Board was plainly wrong and in violation of the purpose and intent of the Zoning Ordinance.
- 7-C-7 Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Board is affirmed and the court finds that the appeal was frivolous, the Court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the Board may request that the Court hear the matter on the question of whether the appeal was frivolous.

7-D PROCEEDINGS TO PREVENT CONSTRUCTION OF BUILDING IN VIOLATION OF ZONING ORDINANCE

Where a building permit has been issued and the construction of the building for which the permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals.

8 AMENDMENTS

8-A GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Town Council may amend, supplement, or change this Zoning Ordinance, including the Schedule of District Regulations and the official Zoning Map (Rezoning).

8-B METHOD OF INITIATING AMENDMENTS

Amendments to the Ordinance may be initiated by one of the following methods:

8-B-1 Petition of Property Owner

- 8-B-1-a A property owner may initiate a request for an amendment to the official Zoning Map (Rezoning) by filing a petition with the Town Council on forms provided by the Zoning Administrator, and paying the applicable fee.
- 8-B-1-b A property owner may request the Town Council or Planning Commission approve a resolution initiating a proposal to amend the text of the Zoning Ordinance (as described in sections 8-B-2 or 8-B-3, below). If the Council or Commission approves such resolution, the property owners shall pay the applicable fee.
- 8-B-1-c The Zoning Administrator, on behalf of the Town Council, shall refer the petition to the Planning Commission at their next regular monthly meeting for consideration. A recommendation shall be reported to the Town Council within 100 days after the first meeting of the Planning Commission after the petition is referred to it.

8-B-2 Town Council Resolution

The Town Council may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment. Such resolution, upon adoption, shall be referred to the Planning Commission at their next regular monthly meeting for consideration. A recommendation shall be reported to the Town Council within 100 days after the first meeting of the Planning Commission after the resolution is referred to it.

8-B-3 Planning Commission Resolution

The Planning Commission may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment.

8-C AMENDMENTS WITH PROFFERED CONDITIONS

8-C-1 Proffer of Conditions

Prior to any public hearing before the Planning Commission and/or the Town Council, any applicant for rezoning under Section 8-B-1 above may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions shall comply with the provisions of Section 15.2-2297 of the Code of Virginia.

8-C-2 Effects of Conditions

Upon the approval of any such rezoning, all conditions so proffered and accepted by the Town Council shall be deemed a part thereof and nonseverable there from and shall remain in force until amended or varied by the Town Council in accordance with Section 15.2-2302 of the Code. All such conditions shall be in addition to the regulations provided for the district by the Ordinance.

- 8-C-3 Zoning Map Notation
Each rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.
- 8-C-4 Authority of Zoning Administrator
The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning. Such authority, includes:
- a. ordering, in writing, the remedy of any noncompliance with such conditions; and
 - b. bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and requiring a guarantee satisfactory to the governing body. The guarantee shall be in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions or a contract for the construction of such improvements and the contractor's guarantee in like amount and so conditioned. The guarantee may be reduced or released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of said improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits as may be appropriate.
- 8-C-5 Petition for Review of Decision
Any zoning applicant who is aggrieved by the decision of the Zoning Administrator pursuant to the provisions of Section 8-C-4 above may petition the governing body for a review of the decision of the Zoning Administrator.
- 8-C-6 Site Development Plan
Every petition for zoning amendment which proposes conditions to be applied to the rezoning shall be accompanied by 15 copies of a site development plan prepared in accordance with the requirements of Article 6 of this Ordinance. In addition to the application forms and site development plan, each application for conditional rezoning shall include:
- 8-C-6-a A statement explaining the relationship of the development to the adopted Comprehensive Plan of the Town.
 - 8-C-6-b A statement or presentation setting forth the maximum number of dwelling units proposed for any residential development, and the density and open space calculations when required by this Ordinance.
 - 8-C-6-c A statement certifying that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards. Any waiver, exception or variance sought by the applicant from such ordinances, regulations and standards shall be specifically noted on the development plan.
 - 8-C-6-d A statement of those special amenities that are proposed within the development.
 - 8-C-6-e A statement of the public improvements, both on and off-site, that are proposed for dedication and/or construction, and an estimate of the timing of providing such improvements.

- 8-C-6-f A statement setting forth the proposed approximate development schedule.
- 8-C-6-g Any additional information that the applicant may desire to proffer in the consideration of the application.
- 8-C-7 **Statement Regarding Conditions**
All petitions, statements, plans, and other materials submitted with an application for conditional zoning shall be annotated with the following statement signed by the applicant and the owner. The following signed statement shall be made available prior to the public hearing before the Town Council: "I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."
- 8-C-8 **Proffered Condition Regulations**
Proffered conditions shall include written statements, development plans, and/or other materials proffered in accordance with the provisions of Section 8-C-1 above and approved by the Town Council in conjunction with the approval of an amendment to the Zoning Map. Proffered conditions shall be subject to the following procedures and regulations:
- 8-C-8-a Once conditions to be proffered are signed and made available, and the public hearing before the Town Council has commenced, no change or modification to any condition shall be made and no additional conditions shall be proffered at that public hearing.
- 8-C-8-b If the amendment to the Zoning Map is adopted subject to the conditions proffered by the applicant as set forth above, then the property in question shall be appropriately annotated on the Zoning Map and all other land records referencing the conditions as adopted.
- 8-C-8-c Such proffered conditions shall become a part of the zoning regulations applicable to the property in question, unless subsequently changed by an amendment to the Zoning Map. Such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.
- 8-C-8-d Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions and no development shall be approved by any County official in the absence of said substantial conformance.
- 8-C-8-e For the purposes of this Section, substantial conformance means conformance with a reasonable margin for adjustment due to final engineering data but conforms to the general nature of the development, the specific uses, and the general layout depicted by the plans, and other material presented by the applicant.
- 8-C-8-f An application shall be filed for an amendment of the approved conditions that would not be in substantial conformance with the proffered conditions or for a request to proffer conditions on a parcel not currently the subject of a proffered condition. Such amendment shall be the subject of public hearing in accordance with the provisions of Section 8-E-1 below. If the amendment concerns an approved site development plan, such application shall include the submission requirements for a site development plan set forth in Section 8-C-6 above. The Zoning Administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the generalized development plan amendment application.

8-D ACTION BY PLANNING COMMISSION

- 8-D-1 Public Hearing
Upon a property owner petition or Town Council resolution being referred to it, or upon passage of a resolution by the Planning Commission, the Planning Commission shall hold a public hearing on the petition or resolution as provided by Section 15.2-2285, Code of Virginia, 1950, as amended, after publishing notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 8-D-2 Recommendation by Commission
 - 8-D-2-a Following the public hearing, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment.
 - 8-D-2-b Failure of the Planning Commission to report to the Town Council within 100 days after the first meeting of the Commission following the referral of the petition or resolution to it, shall be deemed a recommendation of approval by the Commission of the proposed amendment.
 - 8-D-2-c The Planning Commission, in making recommendations on the proposed amendment, may recommend appropriate changes in the proposed amendment. However, before recommending that land that was not included in the proposed amendment be rezoned or that land included in the proposed amendment be rezoned to a different use classification than proposed, the Commission shall hold a further public hearing after giving notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
 - 8-D-2-d Before making a recommendation, the Commission may require the applicant to furnish such information as it may deem necessary in order to determine whether the proposed amendment is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the specific findings listed in 8-E-2-c. The Commission may make any additional findings it may deem appropriate.
 - 8-D-2-e Burden of Proof
The burden of proof shall be on the applicant to show the reasonableness of the proposed amendment, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 8-E-3.

8-E ACTION BY TOWN COUNCIL

- 8-E-1 Public Hearing
After receiving the recommendation of the Planning Commission, and before acting on a proposed amendment, the Town Council shall hold a public hearing, as provided in Section 15.2-2285, Code of Virginia, 1950, as amended, after giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 8-E-2 Action by Town Council
 - 8-E-2-a After holding the public hearing, the Town Council shall act upon the proposed amendment. The Town Council may make appropriate changes or corrections in the proposed

amendment. However, no land may be zoned to a different use classification than was contained in the public notice of the public hearing, without an additional public hearing after notice required by Section 15.2-2204, Code of Virginia, as amended.

8-E-2-b The Town Council shall enact amendments to this ordinance in the same manner by as all other ordinances.

8-E-2-c **Burden of Proof**
The burden of proof shall be on the applicant to show the reasonableness of the proposed amendment, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 8-E-3.

8-E-3 **Criteria for Action on Proposed Amendment**
Before taking action, the Town Council may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed amendment is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the following specific findings.

8-E-3-a Will be consistent with the Comprehensive Plan of the Town.

8-E-3-b Will be consistent with the Purposes and Intent of this Ordinance.

8-E-3-c Will not have an undue adverse impact on the short-term and long-term fiscal resources of the Town or the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services. Will be consistent with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.

8-E-3-d Will not cause an undue adverse effect on neighboring property values without furthering the goals of the Comprehensive Plan to the benefit of the Town.

8-E-3-e Will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.

8-E-3-f Will not cause destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.

8-E-3-g Will have sufficient water available for its foreseeable needs.

8-E-3-h Will not cause unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.

8-E-3-i Will not cause undue surface or subsurface water pollution.

8-E-3-j Will not cause an undue adverse effect on existing or proposed septic systems in adjacent areas.

8-E-3-k Will not cause unreasonable soil erosion.

8-E-3-l Will have adequate facilities to provide safety from flooding, both with respect to proposed structures and to downhill/downstream properties.

8-E-3-m Will not cause undue air pollution.

8-E-3-n Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.

8-F WITHDRAWAL OF PETITIONS

A petition by a property owner proposing an amendment may be withdrawn at any time. If the petition is withdrawn after the Planning Commission has commenced its public hearing on the petition, no new petition concerning any of the same land shall be filed by a property owner within 12 months of the withdrawal. However, the body before whom the petition is pending at the time may specify by resolution or motion that the time limit shall not apply or that a shorter time limit applies.

8-G LIMITATION ON FILING NEW PETITION AFTER DENIAL

8-G-1 Upon denial by the Town Council of any petition for amendment filed by a property owner, no new petition shall be filed within 12 months of the date of denial. This limitation shall not apply to applications for conditional zoning.

8-G-2 Nothing in this Section or in Section 8-F above shall be held to impair the right of the Planning Commission or the Town Council by resolution to propose any amendment at any time.

9-B DEFINITIONS

9-A GENERAL USAGE

For the purpose of this Ordinance, certain words and terms are herein defined as follows:

- 9-A-1 Words used in the present tense include the future tense and words in the singular number include the plural number or words in the plural number include the singular number, unless the obvious construction of the wording indicates otherwise.
- 9-A-2 The word "shall" is mandatory.
- 9-A-3 Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.
- 9-A-4 The word "building" includes the word "structure;" the word "lot" includes the words "plot" and "parcel."
- 9-A-5 The word "used" shall be deemed also to include "erected," "reconstructed," "altered," "placed," or "moved."
- 9-A-6 The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of a building."
- 9-A-7 The word "State" means the Commonwealth of Virginia.
- 9-A-8 The word "Town" means the Town of Boyce, Commonwealth of Virginia, and the term "town boundary" means any exterior boundary of the Town.
- 9-A-9 The word "approve" shall be considered to be followed by the words "or disapproved."
- 9-A-10 The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- 9-A-11 Reference to "Code of Virginia" or this Ordinance shall include "as amended."
- 9-A-12 The word "adjacent" means "nearby" and not necessarily "contiguous," unless the obvious construction of the wording indicates otherwise.

9-B DEFINITIONS (11/1/2005)

- 9-B-1 **ACCESS:** A means of approach or admission.
- 9-B-2 **ACCESSORY BUILDING:** A building subordinate to, and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building.
- 9-B-3 **ACCESSORY USE:** A use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.
- 9-B-4 **ALLEY:** A right-of-way, which provides secondary service access for vehicles to the side or rear of abutting properties.
- 9-B-5 **ALTERATION, STRUCTURAL:** Any change, removal, replacement, reinforcement, or addition of beams, ceiling and floor joists, reinforced concrete floor slabs (except those on fill), load bearing partitions, columns, exterior walls, stairways, roofs, corridors, or other structural materials used in a building that supports the said beams, ceiling and floor joists, load bearing partitions, columns, exterior walls, stairways, roofs, or structural materials used in the building or structure.
- 9-B-6 **AMENDMENT:** Any repeal, modification, or addition to this Ordinance or any part thereof; any change in the classification, shape, boundary, or area of a district; any repeal or abolition of, or any addition to, the zoning map.
- 9-B-7 **ASSISTED LIVING FACILITY:** Any congregate residential setting that provides or
(3/2/2010) coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a facility licensed by the Virginia Board of Health or the Virginia Department of Behavioral Health and Developmental Services.
- 9-B-8 **BASE FLOOD:** A flood having a one percent chance of being equaled or exceeded in any given year or the one hundred (100)-year flood.
- 9-B-9 **BASEMENT:** That portion of a building below the first floor joists at least half of whose clear ceiling height is above the mean level of the adjacent ground.
- 9-B-10 **BED AND BREAKFAST:** A home occupation where lodging or lodging and meals are provided for compensation for up to five transient guests.
- 9-B-11 **BLOCK:** That property abutting one side of a street and lying between the two nearest intersecting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, perennial stream, or between any of the foregoing or any other barrier to the continuity of development.
- 9-B-12 **BUFFERING; SCREENING:** Any device or natural growth, or a combination thereof, which shall serve as a barrier to vision or noise between adjoining properties. Whenever used for screening or buffering purposes, "natural growth" shall be taken to mean coniferous trees, bushes, and shrubbery.
- 9-B-13 **BUILDING:** A structure having one or more stories and roof, designed primarily for the shelter, support or closure of persons, animals or property of any kind.

- 9-B-14 **BUILDABLE AREA:** The area of a lot remaining after required yards, open spaces, parking, loading, and access areas have been provided.
- 9-B-15 **BUILDING, HEIGHT OF:** The vertical distance measured the finished ground floor elevation of the building to the highest point of the roof surface. If a flat roof, the distance is measured to the deck line. If a mansard, gable, hip, or gambrel roof, the distance is measured to the mean height level between eave and ridge.
- 9-B-16 **BUILDING INSPECTOR:** An appointed official of Clarke County who is responsible for certifying building inspections.
- 9-B-17 **BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated. In any residential zone, any dwelling shall be deemed to be a main building on the lot on which the same is located if the lot is used primarily for residential purposes.
- 9-B-18 **CARPORT:** Any space outside a building and contiguous thereto, wholly or partly covered by a roof, and used for the shelter of motor vehicles. An unenclosed carport is a carport with no side enclosure that is more than eighteen inches in height, exclusive of screens (other than the side of the building to which the carport is contiguous).
- 9-B-19 **CELLAR:** That portion of a building below the first floor joists at least half of whose clear ceiling height is below the man level of the adjacent ground. Such a portion of a building shall not be used for habitation.
- 9-B-20 **CHANNEL:** That portion of a river, stream or other watercourse, which serves to contain and discharge the normal input and flow of water within the confines of the natural banks.
- 9-B-21 **CHURCHES AND OTHER PLACES OF RELIGIOUS ASSEMBLY:** A structure where
(3/2/2010) persons regularly assemble for religious purposes and related social events, which is maintained and controlled by a religious entity, with IRS 501(c)(3) tax status, organized to sustain public worship. This term includes synagogue, temple, mosque, or other such places of worship and religious activities. This term includes the following related facilities: assembly hall, social hall, meeting rooms, administrative offices, playground, and cemetery. This term does not include permanent overnight sleeping accommodations except for clergy or paid full-time staff in a facility commonly referred to as rectory, convent, parsonage, manse, vicarage or church house.
- 9-B-22 **CIRCUIT COURT:** The Circuit Court for Clarke County, Virginia.
- 9-B-23 **CLINIC:** An establishment where physicians or dentists admit human patients, who are not lodged overnight, for examination or treatment.
- 9-B-24 **CLUB (PRIVATE):** Those associations and organizations of a fraternal or social character not operated or maintained for profit, but shall not include a nightclub or other institution operated as a business.
- 9-B-25 **COMMERCIAL:** Any wholesale, retail, or service business activity established to carry on trade for a profit.
- 9-B-26 **COMMISSION:** The Planning Commission of the Town of Boyce, Virginia.

- 9-B-27
(2Mar10) COMMUNITY SERVICES: The following uses that are owned and/or operated by governmental entities or entities that are non-profit or not for profit: community centers, fire and/or rescue squad facilities, government offices, libraries, museums, post offices, playgrounds/parks/recreational facilities, schools for day students serving grades K4 through 12, sewage & treatment and water works, and visitor centers.
- 9-B-28 COMPREHENSIVE PLAN: The Comprehensive Plan of the Town of Boyce, Virginia.
- 9-B-29 COURT: An open, unoccupied space, other than a yard, with a building or group of buildings which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.
- 9-B-30 DAY CARE CENTER: A daytime care program offered for compensation in a commercial structure for any number of persons. A daytime care program offered for compensation in a dwelling unit for 13 or more persons (exclusive of the provider's immediate family members and any persons who reside in the dwelling). The persons receiving care may be either children or adults. A Day Care Center shall be licensed as required by the Commonwealth of Virginia.
- 9-B-31 DAY CARE CENTER, HOME: A daytime care program offered for compensation in a dwelling unit for 12 or fewer persons (exclusive of the provider's immediate family members and any persons who reside in the dwelling). The persons receiving care may be either children or adults. A program for 6 to 12 persons shall be considered a Home Occupation. A program for 1 to 5 persons shall not be considered a Home Occupation or be subject to any other regulations more restrictive than those imposed on a Single Family Dwelling. A Home Day Care Center shall be licensed as required by the Commonwealth of Virginia.
- 9-B-32 DEVELOPMENT: Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.
- 9-B-33 DRIVEWAY: A space or area specifically designated and reserved on a lot for the movement of vehicles from one lot to another or from a lot to a public street.
- 9-B-34 DUPLEX: A single structure containing two dwelling units, each with its own exterior entrance at grade.
- 9-B-35 DWELLING: A dwelling unit.
- 9-B-36 DWELLING, ATTACHED: A dwelling having all or a portion of a wall in common with an adjoining dwelling.
- 9-B-37 DWELLING, DETACHED: A dwelling that is entirely free standing.
- 9-B-38 DWELLING, MULTI-FAMILY: A building containing three or more units.
- 9-B-39 DWELLING, PORTABLE: (See Manufactured Home).
- 9-B-40
(5/2/2005)
(12/7/2010) DWELLING, SINGLE FAMILY: A residential dwelling unit, other than a portable dwelling, designed for and occupied by one family only. This term shall include Group Homes or Assisted Living Facility (as defined in the Code of Virginia, section 15.2-2291), so that Assisted Living Facilities) for up to eight individuals with mental illness, mental retardation, or

developmental disabilities or no more than eight aged, infirm, or disabled persons, and with one or more resident counselors or other staff persons) to be considered residential occupancy by a single family and to not have conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage or adoption.

- 9-B-41 DWELLING, SEMI-DETACHED: (See Duplex).
- 9-B-42 DWELLING, TEMPORARY: A manufactured home, but not necessarily attached to a permanent foundation.
- 9-B-43 DWELLING, TWO-FAMILY: A residential building designed for and occupied by not more than two families.
- 9-B-44 DWELLING UNIT: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities and containing not less than 600 square feet of residential floor area.
- 9-B-45 EASEMENT: A grant by a property owner of the use of his land, or a portion thereof, by another party for a specific purpose.
- 9-B-46 ERECT: Construct, move, or structurally alter.
- 9-B-47 (11/1/2005) FAMILY: One or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, and also including foster children and domestic servants. For the purpose of this definition, a person related by blood is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the property owner or leaser. In no instance shall there be more than one family member for each 200 square feet of heated area in the dwelling, with a maximum of 12 family members. A family may also be a number of persons, not exceeding four, living and cooking together as a single housekeeping unit, though not related by blood, adoption, or marriage.
- 9-B-48 FLOOD: A general and temporary inundation of normally dry land areas.
- 9-B-49 FLOOD, ONE HUNDRED YEAR (INTERMEDIATE REGIONAL FLOOD): A flood that, on the average, is likely to occur once every 100 years (i.e., that has one percent chance of occurring each year, although the flood may occur in any year).
- 9-B-50 FLOOD PLAIN: A relatively flat or low land area adjoining a river, stream or watercourse, lake or other body of standing water, which has been or may be subject to partial or complete inundation by flood water.
- 9-B-51 FLOODWAY: The channel of a river, stream or other watercourse and the adjacent land area required to carry and discharge a flood that, on the average, is likely to occur once every ten years {i.e., that has a ten percent chance of occurring each year}.
- 9-B-52 FLOOR AREA: The aggregate area of all floors included within the outer wall of a building, measured at the exterior of such walls, excluding basements not used for living or recreational purposes, cellars, rooms for heating equipment, garages and unenclosed porches, breezeways and other unheated areas, and including only such floor area under a sloping ceiling for which

the headroom is not less than five feet, six inches and then only if at least 50 percent of such floor area has a ceiling height of not less than seven feet, four inches and provided any such floor area that is situated above another story has access to the floor below by a permanent built in stairway.

9-B-53 FRONTAGE: The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be further away from the street upon which the lot fronts than the required front yard.

9-B-54 FUNERAL HOMES: An establishment used primarily for human funeral services, that may or may not include facilities on the premises for; (a) embalming, (b) performance of autopsies or other surgical procedures, (c) cremation.

9-B-55 GARAGE: A building designed or used for the parking or storage of motor vehicles.

9-B-56 GASOLINE FILLING STATION: Automobile filling stations shall be considered as buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition the following services, may be rendered and sales made and no other:

- a) Sale and servicing of spark plugs, batteries, and distributor parts;
- b) Tire servicing and repair, but not recapping or re-grooving;
- c) Replacement or adjustment of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- d) Radiator cleaning and flushing, provision of water, anti-freeze and the like;
- e) Washing and polishing, and sale of automotive washing and polishing materials;
- f) Greasing and lubrication;
- g) Providing and repairing fuel pumps, oil pumps and lines;
- h) Servicing and repair of carburetors;
- i) Emergency wiring repairs;
- j) Adjusting and repair brakes;
- k) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- l) Provision of cold drinks, packaged foods, tobacco, and similar convenience goods for gasoline supply stations customers, but only as accessory and incidental to principal operation; and
- m) Provision of road maps and other information and material to customers; provision of Restroom facilities.

Uses permissible at an automobile filling station do not include major mechanical body work, straightening of frames of body parts, steam cleaning, painting, welding, storage of automobiles not in operating condition, or any activity involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automobile filling stations.

9-B-57 GOVERNING BODY: The Town Council of Boyce, Virginia.

9-B-58 HEALTH OFFICIAL: HEALTH OFFICER: The legally designated health official of the Department of Health, Commonwealth of Virginia, for the Town of Boyce, Virginia.

9-B-59 HEIGHT: (See Building, Height of).

9-B-60 HISTORIC: Relating to or associated with a place, time, event, and/or person which played a

significant role in influencing or affecting the past course of human activity that shaped the visual, cultural, or political character of the U.S., Virginia, Clarke County, and/or the Town of Boyce.

- 9-B-61 HISTORIC LANDMARK: A building, site, structure, or object, which has been determined eligible for the State or National Register of Historic Places by the Virginia Department of Historic Resources.
- 9-B-62 HOME OCCUPATION: An occupation conducted in a dwelling unit as a secondary use, provided that:
- a) No more than one person other than members of the family residing on the premises shall be engaged in such occupation;
 - b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25 percent of the floor area of the dwelling unit, or not more than 25 percent of said floor area if the home occupation is conducted in an accessory building, shall be used in the conduct of the home occupation. A Bed and Breakfast may use a maximum of three rooms for the conduct of the home occupation, regardless of the floor area of the dwelling unit. Home Day Care may not serve more than 12 clients, regardless of the floor area of the dwelling unit.
 - c) There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of such home occupation, other than a sign as allowed in section 4-I-3-a of this ordinance;
 - d) Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
 - e) No equipment or process shall be used in such home occupation that creates electrical interference, fumes, glare, noise, odors, or vibration, detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit, if the occupation is conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used that creates audible or visual interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
 - f) For home occupations involving vehicular repair:
 - 1) no more than three operable vehicles (not owned by the operator of the home occupation) shall be allowed outside of a completely enclosed structure;
 - 2) additional operable vehicles (not owned by the operator) shall be allowed in a completely enclosed structure;
 - 3) all operable vehicles (not owned by the operator) shall be on the premises only for the purpose of repair, not storage.
- 9-B-63 INN: Any place containing not more than 10 guest rooms offering to the public compensation transitory lodging or sleeping accommodations, overnight or otherwise, with any period of continuous occupancy being not longer than 14 days, including but not limited to facilities known by varying nomenclatures or designations as hotels, motels, or travel lodges.
- 9-B-64 IMPERVIOUS SURFACES: Buildings, structures, and all other man-made improvements on the ground surface, such as pavings and driveways, that is more impervious than the natural surface, thereby increasing the potential for surface runoff.
- 9-B-65 INOPERABLE VEHICLE: For the purposes of this Ordinance, an inoperable vehicle shall be any motor vehicle, trailer, or attachment thereto that is not in operating condition, or that, for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and

wheels, the engine, or essential parts required for the operation of the vehicle, or that is required to display current Town license, state plates and inspection sticker, and that does not display such current town license, state plates, and inspection sticker.

- 9-B-66 JUNK YARD: Any land or building used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of motor vehicles, machinery, or parts thereof.
- 9-B-67 LOT: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, lot width, and lot areas as are required by this Ordinance, and having frontage on an approved street.
- 9-B-68 LOT AREA: The total horizontal area included within the rear, side and front lot lines or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses. Lot area shall not include portions under water except where the total area of a body of water is within the lot or where the width included as part of the area of the lot does not exceed 30 feet.
- 9-B-69 LOT, CORNER: A lot abutting on two or more streets at their intersection.
- 9-B-70 LOT COVERAGE: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.
- 9-B-71 LOT, DEPTH OF: The average horizontal distance between the front lot line and the rear lot line, measured along a straight line.
- 9-B-72 LOT, INTERIOR: Any lot other than a corner lot, and including a through lot.
- 9-B-73 LOT, IRREGULAR: A lot that is so located, shaped, or oriented to adjacent lots that application of general measurement methods or dimensional yard requirements of the district in which located serves no significant public purpose, and/or with location of yards by type (front, side and rear) not logically determined by nor related to yard patterns on nearby regular lots.
- 9-B-74 LOT, REGULAR: A lot that is so located, shaped, and oriented to adjacent lots as to be reasonably adapted to application of general measurement methods and dimensional yard requirements, and with location of yards by type (front, side, rear and special) logically determined by and related to adjacent street or streets and adjacent yard patterns.
- 9-B-75 LOT, THROUGH: An interior lot having frontage on two parallel or approximately parallel streets.
- 9-B-76 LOT, WIDTH OF: The average horizontal distance between side lot lines.
- 9-B-77 LOT OF RECORD; RECORD LOT: Land designated as a separate and distinct parcel of land on a legally recorded subdivision plat filed in the land records of Clarke County, Virginia.
- 9-B-78 LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

- 9-B-79 MANEUVERING SPACE: An area directly related to require parking areas, designed to permit easy vehicular movement. Maneuvering space shall not be considered as part of any required "parking space" or "loading space."
- 9-B-80 MANUFACTURED HOME (also known as MOBILE HOME): A portable dwelling unit, built on a permanent chassis, transportable in one or more sections, and designed to be used as a dwelling, with or without a permanent foundation. "Mobile home" shall include a "manufactured home" as defined in Section 1200.2 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code. A manufactured home (mobile home) is not a modular home.
- 9-B-81 MODULAR HOME: A dwelling unit, consisting of one or more sections, manufactured off-site and transported to the point of use for installation or erection on a permanent foundation. An "industrialized building" as defined in Section 200.0 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code, when used as a residential unit, is a "modular home." A modular home is not a manufactured home (mobile home).
- 9-B-82 NONCONFORMING LOT: An otherwise legally platted lot that does not conform to the area or width requirements of this Ordinance for the district in which it is located.
- 9-B-83 NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform to the lot area, yard, height, lot, coverage, or other area regulations of this Ordinance, or is designed or intended for a use that does not conform to the use regulations of this Ordinance for the district in which it is located.
- 9-B-84 NONCONFORMING USE: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this Ordinance for the district in which it is located.
- 9-B-85 NONPROFIT ORGANIZATION: An organization or group whose charter prohibits profit making endeavors, and which enjoys tax exemption privileges.
- 9-B-86 PARKING, OFF-STREET: Space specifically allotted to the parking of motor vehicles, which space is not in a public right-of-way.
- 9-B-87 PARKING LOT: A lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six or more motor vehicles, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.
- 9-B-88 PARKING SPACE, OFF-STREET: A space suitable for parking one automobile and including adequate driveways, if necessary, to connect such space with a public right-of-way. Space within a building, or upon a roof, allocated for parking, shall be included and considered a part of the required spaces.
- 9-B-89 PLANNING COMMISSION: The Planning Commission of the Town of Boyce, Virginia.
- 9-B-90 PORCH: The term "porch" shall include any porch, veranda, gallery, terrace, portico, or similar projection for a main wall of a building and covered by a roof, other than a carport as defined in

this chapter. An "unenclosed porch" is a porch with no roof or side enclosure (other than the side of the building to which the porch is attached) that is more than 36 inches in height.

- 9-B-91 **PORTABLE STRUCTURE:** Anything constructed or erected that does not require permanent location on the ground, or attachment to something having a permanent location on the ground.
- 9-B-92 **PROFESSIONAL OFFICE:** The office, studio, or professional room of a doctor, architect, artist, musician, lawyer, or similar professional person, excepting any funeral home, or any establishment where goods are offered for sale.
- 9-B-93 **RECREATIONAL EQUIPMENT, MAJOR:** Travel trailers, motorized dwellings, tent trailers, boats and boat trailers, houseboats, (10-18-94) and the like, which require licensing by the Virginia Department of Motor Vehicles, as well as truck campers and caps.
- 9-B-94 **RESTAURANT:** Any establishment, however designated, at which food is sold for consumption on or off the premises. However, a snack bar or refreshment stand at a public or nonprofit community swimming pool, playground, play field or park, operated solely by or for the agency or group operating the recreational facility, and for the convenience of patrons of the facility, shall not be deemed to be a restaurant.
- 9-B-95 **RETAIL AND SERVICE BUSINESSES:** Buildings or land used for on site sale of merchandise at retail or for the rendering of personal services where such service is performed on site.
- 9-B-96 **ROAD:** Shall include the terms street, avenue, way, court, drive and the like.
- 9-B-97 **SCREENING:** (See Buffering).
- 9-B-98 **SETBACK:** The minimum distance by which any building or structure must be separated from the front lot line.
- 9-B-99 **SEWERAGE SYSTEM & TREATMENT WORKS:**
1. Sewerage System: pipelines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal, and
 2. Treatment Works: any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including, but not limited to, pumping, power and other equipment and appurtenances, septic tanks and any works (including land) as components of a Mass Drainfield, that are or will be (a) an integral part of the treatment process or (b) used for ultimate disposal or residues or effluent resulting from such treatment. This term does not include Subsurface Drainfields smaller than Mass Drainfields. A Mass Drainfield is a subsurface drainfield that has loading rates in excess of 1,200 gallons per day for any acre and consists of more than 2,000 linear feet or percolation piping.
- 9-B-100 **STREET, CENTER LINE OF:** A line established as a center line of a street by any State, County, or other official agency or governing body-having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or, if there is no official center line of a street, the center line shall be a line lying midway between the street right-of-way lines. Where street right-of-way lines are indeterminate and a pavement or a traveled way exists, the center line shall be established by the Commission, or in the absence of a determination by the

Commission, shall be assumed to be a line midway between the edges of such pavement or traveled way.

- 9-B-101 **STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, except utility poles.
- 9-B-102 **STRUCTURAL ALTERATION:** Any change, modification, addition or deletion to an existing structure.
- 9-B-103 **TRACT:** A parcel of land for which there exists a separate parcel designation on the Clarke County Real Property Identification Map. Parcels that have been divided by a public road, which is maintained by the Virginia Department of Transportation, shall be considered as separate tracts, even though such tracts may be assigned one parcel designation as herein defined.
- 9-B-104 **USE:** The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.
- 9-B-105 **WATERWORKS:** A system that serves piped water for drinking or domestic use to:
1. the public,
 2. at least 15 connections, or
 3. an average of 25 individuals for at least 60 days out of the year, and shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water (except the piping and fixtures inside the building where such water is delivered).
- 9-B-106 **YARD:** An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures, except as otherwise provided herein.
- 9-B-107 **YARD, FRONT:** An open space, on the same lot as a building, between the front line of the building (excluding steps) and the front boundary line of the lot, and extending across the full width of the lot.
- 9-B-108 **YARD, REAR:** An open space, on the same lot as a building, between the rear line of the building (excluding steps) and the rear boundary line of the lot, and extending across the full width of the lot.
- 9-B-109 **YARD, REQUIRED:** A yard, as herein defined, located on a lot, the minimum dimensions of which are set by the district regulations of this ordinance.
- 9-B-110 **YARD, SIDE:** An open space, on the same lot as a building, between the sideline of the building (excluding steps) and the side boundary line of the lot, and extending from the front yard line to the rear yard line.
- 9-B-111 **ZONING ADMINISTRATOR:** The official charged with the administration and enforcement of the Zoning Ordinance.
- 9-B-112 **ZONING MAP:** The Official Zoning Map of the Town of Boyce, Virginia, and all amendments thereto. The Zoning Administrator shall regularly update it at any such time as amendments are made. The Official Map shall be located in the office of the Zoning Administrator.

9-B-113 ZONING PERMIT: a permit issued by the Zoning Administrator before any work may proceed that is regulated by any provision of this Ordinance or land and/or structures used for any activity regulated by this Ordinance.

9-C DEFINITION DISPUTES

The Zoning Administrator is authorized to make a definitive determination in case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not. The Administrator shall be guided in such determination by the purposes and intent of this Ordinance as set forth in Article 1. An appeal of such a determination may be made as provided in Article 7.

10 ADMINISTRATION PROVISIONS

10-A ADMINISTRATION AND ENFORCEMENT

- 10-A-1 This Ordinance shall be administered and enforced by an officer to be known as the Zoning Administrator who shall be appointed by the Council of the Town of Boyce, Virginia.
- 10-A-2 The Zoning Administrator shall have all necessary authority on behalf of the governing body to administer and enforce the Zoning Ordinance. This authority includes the ordering in writing of the remedying of any condition found in violation of this Ordinance and the bringing of legal action to insure compliance with the Ordinance, including injunction, abatement, or other appropriate action or proceeding.
- 10-A-3 The Zoning Administrator may request and shall receive the assistance and cooperation of appropriate officials of the Town of Boyce and Clarke County, including, but not limited to, the Health Officer, Sheriff, and Commonwealth's Attorney.

10-B ISSUANCE OF PERMITS AND LICENSES

- 10-B-1 All departments, officials, and public employees of the Town of Boyce who are vested with the duty or authority to issue permits or licenses shall, when issuing said permits or licenses, conform to the provisions of this Ordinance.
- 10-B-2 Permits for uses, buildings, or purposes shall only be issued when such uses, buildings, or purposes comply with the provisions of this Ordinance.
- 10-B-3 Any permit or license issued which is in conflict with the provisions of this Ordinance shall be null and void.

10-C VIOLATIONS AND PENALTIES

- 10-C-1 Violations
 - 10-C-1-a Any person, firm, or corporation, whether as owner, lessee, principal, agent, employee, or otherwise, who violates, causes a violation, or permits a violation of any or the provisions of this Ordinance, shall be guilty of a misdemeanor.
 - 10-C-1-b Each day upon which such violation continues shall constitute a separate offense.
 - 10-C-2 Penalties
- Upon conviction of a violation of this Ordinance, the person, firm, or corporation so convicted shall be fined and/or imprisoned in accordance with provisions of Section 15.2-2286, Code of Virginia.

- 10-E-1-b-(3) When a proposed amendment to the Zoning Ordinance involves a change in the zoning map classification of 500 or more parcels of land, written notice to the owners of each parcel of land is not required. Advertising is required as stated in Section 10-E-1-(a).
- 10-E-1-c At least fifteen days preceding the hearing, the applicant shall erect on the involved parcel or parcels, a sign or signs indicating the nature of the request and the body reviewing the request. If the public hearing concerns more than five parcels, the Zoning Administrator shall determine the number and location of signs to be posted. The Zoning Administrator may require a reasonable deposit for each sign furnished to the applicant. The sign shall be erected by the applicant within ten feet of whatever boundary line of such land abuts a public road and shall be so placed as to be clearly visible from the road with the bottom of the sign not less than one foot above the ground. Such sign shall not be erected on the public right-of-way. If more than one such road abuts the subject parcel or parcels, or if no public road abuts thereon, then the Zoning Administrator shall determine the number and location of signs. Any sign erected as required by this Section shall be maintained at all times by the applicant up to the time of the hearing. It shall be unlawful for any person, except the applicant or the Zoning Administrator, or authorized agent of either, to remove or tamper with any required sign during the period it is required to be maintained under this Section. The applicant shall remove all signs erected under this Section within fifteen days following the public hearing for which it was erected. Failure to return the undamaged sign or signs within the prescribed time period will result in the forfeiture of the sign deposit.
- 10-E-1-d At the hearing, the applicant shall submit an affidavit that he/she has fully complied with the requirements of this Section as to provision of written notice and posting of the property.
- 10-E-1-e If any hearing is continued to an unspecified date, written notice shall be remailed for notification of the date of continuation to those parties that received notice of the previous hearing, in accordance with Sections 10-E-1-(b) and 10-E-1-(d) of this Ordinance.

10-F FEES

Fees for permits, applications, petitions, and other action under the provisions of this Ordinance shall be payable to "Treasurer, Clarke County", in such amount as shall from time to time be set by resolution of the Town Council.

10-G SEVERABILITY

Should any section or provision of this Ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

10-H CONFLICT WITH STATUTES, LOCAL ORDINANCES OR REGULATIONS

Whenever the regulations made under authority of this article require a greater width or size of yards, courts or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this article shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this article, the provisions of such statute or local ordinance or regulation shall govern.

10-I REPEAL OF CONFLICTING ORDINANCES

Any Zoning Ordinances of the Town of Boyce previously adopted are hereby repealed as of the effective date of this Ordinance. All other ordinances or parts thereof, which conflict with the provisions of this Ordinance, are hereby repealed as of the effective date of this Ordinance.

10-J EFFECTIVE DATE

This Zoning Ordinance shall be effective at and after 12:01 A.M. the 5th of May 2000.