

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

**SUBDIVISION
ORDINANCE**

Adopted 5 May 2000

Amendments through 3 May 2011

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1 PURPOSE, TITLE, AND GENERAL PROVISIONS

1-A PURPOSE

- 1-A-1 The purpose of this Ordinance is to establish subdivision standards and procedures for all the Town of Boyce, Virginia.
- 1-A-2 These regulations are part of a long range plan to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, but not in limitation, the purpose of these standards and procedures is as follows:
 - 1-A-2-a To avoid undue water pollution, unreasonable depreciation of existing water supplies, unreasonable soil erosion, undue air pollution, unreasonable and unsafe highway conditions, and undue adverse effects on existing septic systems.
 - 1-A-2-b To assure sufficient water supplies, adequate drainage, and adequate access to lots.
 - 1-A-2-c To adequately provide for traffic, recreation, light, and air.
 - 1-A-2-d To control subdivision or building in flood plain areas, in unsafe land areas, and in unsuitable and unsightly areas.
 - 1-A-2-e To assure that consumers are purchasing property that is suitable for development and use

1-B TITLE

This Ordinance is known and may be cited as the "Subdivision Ordinance of the Town of Boyce, Virginia," and is authorized pursuant to the provisions of Title 15.2, Chapter 22, Article 6 of the Code of the Commonwealth of Virginia, as amended.

1-C GENERAL PROVISIONS

1-C-1 Private Contracts

This Ordinance bears no relation to any private easement or covenant, and the responsibility of enforcing such private easement, covenant, agreement, or restriction is not implied herein to any public official. When this Ordinance calls for more restrictive standards than those required by private contract, the provisions of this Ordinance shall control.

1-C-2 Interpretation

The provisions of this Ordinance shall be the minimum requirements for submission, preparation, and recordation of all plans and plats.

2

USAGE AND DEFINITIONS

2-A GENERAL USAGE

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

- 2-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.
- 2-A-2 The word "shall" is mandatory, and not directory.
- 2-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.
- 2-A-4 The word "building" includes the word "structure"; the word "lot" includes the words "plot" and "parcel."
- 2-A-5 The word "used" shall be deemed also to include "erected," "reconstructed," "altered," "placed," or "moved."
- 2-A-6 The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of a building."
- 2-A-7 The word "State" means the Commonwealth of Virginia.
- 2-A-8 The word "Town" means the Town of Boyce, Commonwealth of Virginia, and the term "town boundary" means any exterior boundary of the corporate limits of the Town.
- 2-A-9 The word "approve" shall be considered to be followed by the words "or disapprove."
- 2-A-10 The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- 2-A-11 Reference to "Code of Virginia" or to this Ordinance shall include "as amended."
- 2-A-12 The word "adjacent" means "nearby" and not necessarily "contiguous," unless the obvious construction of the wording indicates otherwise.

2-B DEFINITIONS

- 2-B-1 **ADVERSE DRAINAGE CONDITION:** The absence of drainage facilities or drainage easements leading to, along or through a highway or drainage structure, either within or exterior to a proposed subdivision including: Facilities of such location, size, design, construction, or condition as will not provide adequately for storm drainage; or which will cause either flooding, erosion, silting or other damaging effect to a highway or drainage structure; or threatens to damage private property within or without the proposed subdivision as a result of storm drainage from, along, or through a highway or drainage structure.

- 2-B-2 ALLEY: A permanent service way providing a secondary means of access to abutting properties.
- 2-B-3 BLOCK: An area enclosed by an adjacent, and usually by intersecting, streets.
- 2-B-4 BOUNDARY LINE ADJUSTMENT: The adjustment of recorded property lines between adjoining tracts. A Boundary Line Adjustment is not considered a Subdivision.
- 2-B-5 BUILDING SETBACK LINE: A line showing the minimum distance by which any structure (exclusive of signs) must be separated from the front lot line of a lot.
- 2-B-6 COMMISSION: The Planning Commission of the Town of Boyce, Virginia.
- 2-B-7 COUNCIL: The Council of the Town of Boyce, Virginia.
- 2-B-8 COVENANT: A written agreement or promise between two or more parties, especially for the performance of some action.
- 2-B-9 CUL-DE-SAC: A street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.
- 2-B-10 DEDICATION FOR ROAD PURPOSES: An easement for the purpose of construction, reconstruction, widening or improving a road, including the repair and maintenance of the road and the construction, reconstruction, or alteration of facilities related to the safety, convenience or carrying capacity of the road including drainage facilities and traffic control devices.
- 2-B-11 DEVELOPER: An owner of property being subdivided, whether or not represented by an agent.
- 2-B-12 DEVELOPMENT: The process of erecting or causing to be erected buildings or structures on a lot, or the physical preparation of a lot for the purpose of such erection.
- 2-B-13 DRAINAGE EASEMENT OR DRAINAGE RIGHT-OF-WAY: Assignable rights-of-way across land to provide for the alignment and maintenance of drainage course, installation of drainage facilities, enlargement of existing drainage ways or for similar or related storm drainage purposes.
- 2-B-14 EASEMENT: A grant by a property owner of the use of, or non-use of, land for a specific purpose on a repeating or continuous basis.
- 2-B-15 ENGINEER: An engineer licensed by the Commonwealth of Virginia.
- 2-B-16 FLOOD, 100 YEAR: The highest level of flooding that, based upon an analysis of past floods, is likely to occur once in every 100 years.
- 2-B-17 FLOOD PLAIN: Sections of land, adjacent to bodies of water, which will be covered by floodwater in a 100-year flood.
- 2-B-18 GOVERNING BODY: The Council of the Town of Boyce, Virginia.
- 2-B-19 HEALTH OFFICIAL: The Health Director or Sanitarian serving Clarke County, Virginia.

- 2-B-20 HIGHWAY ENGINEER: The Resident Engineer employed by the Virginia Department of Transportation.
- 2-B-21 IMPROVEMENT: Streets, sidewalks, curbs, gutters, water mains, drainage facilities, landscaping, recreational facilities and all other such betterment as may be required under the provisions of this Ordinance.
- 2-B-22 JURISDICTION: The area of territory subject to the legislative control of the governing body.
- 2-B-23 LOT: A numbered and recorded portion of a tract, division, or subdivision, intended for transfer of ownership or for development for a single building or accessory building.
- 2-B-24 LOT, CORNER: A lot abutting upon two or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.
- 2-B-25 LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines.
- 2-B-26 LOT, DOUBLE FRONTAGE: An interior lot having frontage on two streets.
- 2-B-27 LOT, INTERIOR: A lot other than a corner lot.
- 2-B-28 LOT LINE: A line dividing one lot from another or from a street or other public place.
- 2-B-29 LOT OF RECORD: A lot, which has been recorded in the Office of the Clerk of the appropriate Court.
- 2-B-30 LOT, WIDTH OF: The mean horizontal distance between the side lot lines.
- 2-B-31 PERCOLATION TEST OR SOIL BORINGS: Field test conducted and used in judging the suitability of soil for on-site, sub-surface sewer and seepage systems.
- 2-B-32 PLAN: The map or plat illustrating or describing a subdivision or land development.
- 2-B-33 PLAN, EXPLORATORY SKETCH: An informal plan indicating salient existing features of a tract and its surroundings and including the general layout of a proposed subdivision or land development.
- 2-B-34 PLAT: Includes the terms: Map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb, "plat" is synonymous with "subdivide."
- 2-B-35 PLAT, PRELIMINARY: A map of a proposed land subdivision showing the character and proposed layout of the tract in conformance with the regulations set forth in this Ordinance to indicate the suitability of the proposed subdivision of land.
- 2-B-36 PLAT, RECORD: A final map of all or a portion of a subdivision which, when approved, shall meet all the applicable requirements of this Ordinance and shall be in a form suitable for recording.

- 2-B-37 PRIVATE ACCESS EASEMENT: A perpetual easement, not a part of any public road system, which grants principal means of access on a continuing basis to any lot or parcel hereinafter created under the terms and provisions of this Ordinance. Any such private access easement shall be privately constructed and maintained.
- 2-B-38 PROPERTY: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.
- 2-B-39 RESIDENT ENGINEER: The Resident Engineer of the Virginia Department of Transportation assigned to Clarke County, or his designee.
- 2-B-40 RESUBDIVIDE: To make any change in any dimension of any lot as shown on an approved record plat except in the case of a plat recorded for the purpose of a security release to a lending agency.
- 2-B-41 ROAD: See Street.
- 2-B-42 STREET: The principal means of public access to any lot in a subdivision. The term “street” shall include road, lane, drive, place, avenue, highway, boulevard, or any other thoroughfare for a similar purpose, but shall not include any private access easement. All streets shall be constructed to requirements and specifications of the Virginia Department of Transportation for acceptance into the State Road System.
- 2-B-43 STREET OR ALLEY, PUBLIC USE OF: The unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.
- 2-B-44 STREET, MAJOR: Any existing or future heavily traveled thoroughfare, street, or highway that carries a large volume of through traffic, or anticipated traffic exceeding 500 vehicles per day; any existing State Secondary Road
- 2-B-45 STREET, MINOR: A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day.
- 2-B-46 STREET, SERVICE ROAD OR DRIVE: A public right-of-way generally parallel and contiguous to a major highway primarily designated to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.
- 2-B-47 STREET WIDTH: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips.
- 2-B-48 SUBDIVIDE: To voluntarily divide any tract, parcel, or lot of land into two or more parts, with the following exceptions:
- 2-B-48-a Boundary Line Adjustments (See Special Regulations, Article 7-I).
 - 2-B-48-b The division of land shall not be considered a subdivision if, in the opinion of the Zoning Administrator:
 1. It is not in conflict with the general meaning and purpose of this Ordinance;
 2. No streets, roads, or rights-of-way not already accepted into the State Highway System are

- needed to serve any parcel in the subdivision;
- 3. Not more than two parcels would result from the division of land;
- 4. The use of one of the parcels will be public utility uses.

- 2-B-48-c All persons proposing to divide and/or merge land who contend such division is exempted from the provisions of this Ordinance under subsections (a) or (b), above, shall submit to the Zoning Administrator a plat of the proposed division, or other documents, plats, or evidence satisfactory to the Zoning Administrator. If in the opinion of the Zoning Administrator the division is accepted, he shall so certify on said plat or on the deed of conveyance by which the property is to be divided. The Zoning Administrator's certificate shall state that the division is accepted under (a) or (b) above, and shall be signed by the Zoning Administrator.
- 2-B-49 SUBDIVIDER: Any person, persons, firm, corporation, partnership, or other entity, and the agent or agents thereof, subdividing or proposing to subdivide land as herein defined.
- 2-B-50 SUBDIVISION: The act or process of subdividing as herein defined. All parcels resulting from the act of subdividing a tract of land shall be a part of the subdivision and the requirements of this Ordinance, including platting requirements, shall apply there to.
- 2-B-51 SUBDIVISION, MAJOR: A subdivision meeting any of the following conditions:
 - 2-B-51-a Three or more lots are proposed.
 - 2-B-51-b A lot will be used for commercial or industrial purposes.
 - 2-B-51-c A right of way in the subdivision will be proposed for acceptance into the Virginia Department of Transportation road system.
 - 2-B-51-d Homeowners association to be created for this subdivision.
- 2-B-52 SUBDIVISION, MINOR: A subdivision containing less than 3 lots and meets none of the conditions set under Section 2-B-51, Subsections (a), (b), (c), and (d) for major subdivisions.
- 2-B-53 SUBSTANDARD DIVISIONS: A division of land not in conformity with this Ordinance may be re-subdivided and redeveloped in whole or in part; but only under the provisions of this Ordinance.
- 2-B-54 TOWN: The Town of Boyce, Virginia.
- 2-B-55 TRACT: A parcel of land for which there exists a separate parcel designation on the Clarke County Real Property Identification Map. Parcels which have been divided by a public road which is maintained by the Virginia Department of Transportation or a railroad regulated by the State Corporation Commission shall be considered as separate tracts, even though such tracts may be assigned one parcel designation as set forth herein.
- 2-B-56 ZONING ADMINISTRATOR: The representative of the governing body who has been appointed to serve as the agent of the governing body in accordance with the requirements of this Ordinance.

2-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 a determination may be made as provided in Section 12-B.

3 ADMINISTRATION

3-A ADMINISTRATION BY PLANNING COMMISSION

- 3-A-1 The Planning Commission is hereby delegated to administer this Ordinance. In so doing, the Commission shall be considered the agent of the Council of the Town of Boyce.
- 3-A-2 The Commission may act through its Zoning Administrator and/or Planning Staff duly appointed as provided in Section 15.2-2217 of the Code of Virginia, to the extent that the Commission finds appropriate for the administration of this Ordinance. However, no person may act for the Commission in approving, conditionally approving, or denying any Preliminary Plat or Record Plat.
- 3-A-3 Specifically, but not in limitation, the Zoning Administrator shall have authority, in the name of the Town of Boyce, to invoke any legal measures necessary to prevent, restrain, correct or abate any violation or attempted violation of any of the provisions or regulations herein.

3-B PERFORMANCE OF DUTIES

The Commission shall perform its duties as regards subdivision and subdividing in accordance with this Ordinance and the Virginia Land Subdivision and Development Act.

3-C REGULATIONS

In addition to the requirements herein contained for the platting of subdivisions, the Commission may establish such administrative rules and procedures, as it deems necessary for the proper administration of this Ordinance.

3-D OBTAINING OPINIONS

In the performance of its duties, the Commission may call for the recommendations, either verbal or written, from other departments of the Town, Clarke County, or State government or other agencies or individuals that the Commission believes may be of service.

3-E SUBDIVISION OF LAND IN TWO JURISDICTIONS

- (4-3-01) Should a single parcel of land be located partly in the County and partly in the Town of Boyce, and it is proposed to divide the property along the line demarcating Town and County jurisdiction, the locality in which the greater area of the parcel is located shall have jurisdiction over such subdivision of the parcel.

4 PROCEDURE FOR SUBDIVISION APPROVAL

4-A EXPLORATORY SKETCH PLAN

- 4-A-1 All subdividers who intend to subdivide two or more acres of land or who intend to subdivide land for commercial or industrial use, regardless of the number of parcels, shall be required to prepare and submit an Exploratory Sketch Plan to the Zoning Administrator. The Exploratory Sketch Plan may be submitted at any time during normal office hours and shall be considered as submitted for informal discussion between the subdivider and the Zoning Administrator. This step does not require formal application fee or filing of a plat with the Planning Commission.
- 4-A-2 The Zoning Administrator shall then review the subdivision and offer comments relating to Town standards and requirements or provide suggestions for modifications or changes to be incorporated on the Preliminary Plat.
- 4-A-3 Following review by the Zoning Administrator of the Exploratory Sketch Plan and a meeting with the subdivider to discuss same, the subdivider may prepare the Preliminary Plat for formal submittal in accordance with the following terms of this Article.

4-B APPLICATION

A complete application for subdivision approval shall be filed with the Zoning Administrator at least 30 days prior to the date of the Commission meeting at which consideration thereon is desired. In the event notice of public hearing is required pursuant to Section 4-F-2-(a) herein, such application shall be filed at least 30 days prior to the Commission meeting at which such hearing may be scheduled. In the event streets are proposed for acceptance into the Virginia Department of Transportation's Road System, all plats, plans, maps and profiles in conformance with the specifications and requirements of the Department and this Ordinance shall be submitted for referral to the Resident Engineer at least 60 days before the date of the Commission meeting at which action on the application for subdivision approval is desired. A complete application for subdivision approval shall contain at least the following:

- 4-B-1 The applicant's name and address, and, where the applicant is not an individual, the form, date, and place of formation of the applicant.
- 4-B-2 Environmental Inventory and Impact Statement.
- 4-B-3 Consumer Disclosure Statement.
- 4-B-4 Preliminary Plat.
- 4-B-4-(a) Ten blue line or black line prints shall be submitted.

- 4-B-4-(b) The preliminary plat and all required supporting documents submitted shall conform in all ways with the requirements set forth in Article 7, Section B of this Ordinance.
- 4-B-5 Payment of Fee.
- 4-B-6 Plans for Water and Sewerage Facilities.
- 4-B-6-(a) A written report from the Clarke County Sanitary Authority identifying any specifications to be met as a condition to furnishing or operating such public water and/or sewerage.
- 4-B-6-(b) A certificate from the Clarke County Sanitary Authority evidencing agreement to accept such facilities and setting forth all conditions of the agreement for such acceptance.
- 4-B-6-(c) A written report from the Clarke County Health Department evidencing conformance of plans for such facilities with all applicable requirements and specifications of the Virginia Department of Health.
- 4-B-7 Certificate signed by the Resident Engineer of the Virginia Department of Transportation evidencing approval of the proposed design and construction of all streets, as defined in Section 2-B-42 herein. Said certificate shall also verify that all streets will be accepted into the state Highway System for maintenance at such time that criteria for establishment of genuine public need is satisfied, provided such streets are constructed in accordance with the approved plans and profiles and are in good condition.

4-C ACCEPTANCE FOR FILING

- 4-C-1 The Zoning Administrator shall review the Preliminary Plat and other documents submitted with the application to determine if they conform to the technical requirements of this Ordinance. If in conformance, the application will be accepted for filing.
- 4-C-2 Applications for the same or substantially similar subdivision shall not be accepted or considered for all or any part of property for which a Preliminary Plat or Record Plat has been disapproved by the Planning Commission during the 12 months immediately preceding the application. Such application shall address, at a minimum, those criteria that were cited as the basis of denial.

4-D PUBLIC DISCLOSURE

The Preliminary Plat and other documents comprising an application shall be available for public viewing in an office designated by the Zoning Administrator.

4-E REPORT TO PLANNING COMMISSION

- 4-E-1 Copies of the Preliminary Plat shall be distributed to all members of the Planning Commission and to any or all of the following agencies that may exist, and any other agencies, as deemed necessary by the Zoning Administrator:

Town Engineer
Clarke County Sanitary Authority
Clarke County School System
Clarke County Health Department
Clarke County Department of Parks and Recreation
Lord Fairfax Soil Conservation Technician
Resident Engineer, Virginia Department of Transportation

- 4-E-2 After the Zoning Administrator has received review comments from the agencies and officials to which the Preliminary Plat has been referred, a report shall be prepared and submitted to the Planning Commission.

4-F PUBLIC HEARING

- 4-F-1 A public hearing shall be required for any proposed subdivision, and the Planning Commission shall give notice of a public hearing in accordance with Section 4-F-2 of this ordinance.
- 4-F-2 Public hearings held by the Planning Commission shall be held in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. In accordance with Section 15.2-2206 of the Code of Virginia, 1950, as amended, the subdivision applicant shall be responsible for providing the notice required in Section 4-F-3-(b); and shall bear the cost of said notice. The applicant shall be required to supply the names of those persons that were required to be notified and certify that said notice was sent. The certification of notice and a listing of the persons to whom notice was sent shall be supplied by the applicant to the zoning administrator at least five days prior to the public hearing. Any person entitled to notice may waive such right in writing. In accordance with applicable regulations, before such hearings, the following is required:
- 4-F-2-a Notice of the intended action shall be published once a week for two successive weeks in some newspaper publishing or having general circulation in the Town of Boyce. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than five days nor more than twenty-one days after the second advertisement shall appear in such newspaper.
- 4-F-2-b At least 15 days preceding the hearing, the applicant shall erect on the parcel to be subdivided, 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 number and location of signs to be posted shall be determined by the Zoning Administrator. The Zoning Administrator may require a reasonable deposit for each sign furnished to the applicant. The sign shall be erected by the applicant within 10 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 in the public right-of-way. If more than one such road abuts the property, or if no public road abuts thereon, then the number and location of signs shall be determined by the Zoning Administrator. If no public road abuts thereon, then signs shall be placed in the same manner as above on at least one (or as many as is deemed necessary by the Zoning Administrator) boundary of the property abutting land not owned by the applicant. 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 a 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 15 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.

- 4-F-2-c Written notice shall be given at least five days before the hearing to the owners (as shown on the current real estate assessment records of Clarke County) of all abutting property and property immediately across the street or road from the property to be subdivided. If such notice is sent by an applicant other than a representative of the Planning Commission, it shall be sent by registered or certified mail. If such notice is sent by a representative of the Commission, the notice may be sent first class mail; provided that the representative make affidavit that such mailings have been made and file such affidavit with the records of the case.
- 4-F-2-d At least 15 days preceding the hearing, the applicant shall erect on the parcel to be subdivided, a sign or signs, in such number as are furnished by the Zoning Administrator, indicating the date, time, and place of the hearing. The Zoning Administrator may require a reasonable deposit for each sign furnished to the applicant. The sign shall be erected by the applicant within 10 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 in the public right-of-way. If more than one such road abuts the property, then at least two signs shall be erected in the same manner as specified above, along at least two abutting roads. If no public road abuts thereon, then signs shall be placed in the same manner as above on at least one (or as many as is deemed necessary by the Zoning Administrator) boundary of the property abutting land not owned by the applicant. 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 a 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 15 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.
- 4-F-2-e 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.
- 4-F-2-f If any hearing is continued, to an unspecified date, written notice shall be re-mailed for the notification of the date of continuation to those parties that received notice of the previous hearing, in accordance with Sections 4-F-2-(b) and 4-F-2-(d) of this Ordinance.

4-G ACTION ON PRELIMINARY PLAT

- 4-G-1 Within 60 days of the date of the meeting of the Planning Commission at which a complete application is submitted to the Commission, the Commission shall approve, conditionally approve, or deny the Preliminary Plat.
- 4-G-2 The Commission shall approve the Preliminary Plat provided that the Commission finds the Plat and all required supporting documents meet the requirements of this Ordinance, any other applicable ordinances and regulatory requirements, including the requirements of Section 4-G-2-(b), below. Otherwise, the Commission shall deny the Preliminary Plat.
- 4-G-2-a In making its determination, the Commission shall consider, where applicable, the Comprehensive Plan, the Zoning Ordinance, the Erosion and Sediment Control Ordinance, the Environmental Inventory and Impact Statement, the Consumer Disclosure Statement, Clarke County Sanitary Authority requirements and regulations, Virginia Department of Transportation requirements and regulations, agency comments pursuant to Section 4-E of this Ordinance, and any other applicable statutes, ordinances, or regulations.
- 4-G-2-b In order to approve the Preliminary Plat, the Commission, in considering the matters set forth in Section 4-G-2-(a), above, shall determine, without limitation, that the subdivision as set forth in the Preliminary Plat:
1. Will not cause unreasonable soil erosion or reduction in the capacity of the land or water so that a dangerous or unhealthy condition may result.
 2. Will not cause unreasonable highway congestion or unsafe conditions with respect to the use of the highways existing or proposed, and has adequate road access. In making this determination, it shall consider the width and grade stability, and whether or not the increase in traffic volume, which would be generated by the proposed subdivision, would create a hazard to public safety or seriously aggravate an already hazardous condition.
 3. Has adequate drainage. In making this determination, it shall consider whether or not the surface or subsurface water retention and/or runoff is such that it constitutes a danger to the structural integrity of proposed dwelling units or other proposed on site structures, and whether or not proposed site grading and development will create harmful or damaging effects from erosion and siltation on downhill or downstream land.
 4. Will not have an undue adverse effect on existing or proposed septic systems or water supply systems in adjacent areas.
- 4-G-3 If the Commission denies or conditionally approves the Preliminary Plat, the reasons for such action shall be stated in writing.
- 4-G-3-a If the Commission conditionally approves the Preliminary Plat, the conditions shall be set forth in writing.
- 4-G-3-b If the Commission denies the Preliminary Plat, the reasons for the denial shall be set forth in writing, and if there are specific corrections or modifications which will permit approval of the Preliminary Plat, such corrections or modifications shall be set forth in writing. Any Preliminary Plat that is denied shall be subject to the provisions of Section 4-C-2.

- 4-G-4 Approval of the Preliminary Plat may be conditioned upon, among other things, the subdivider including in the Deed of Dedication of the property, and/or in the deed of conveyance for each lot within the subdivision, restrictive covenants required by this Ordinance and agreed to by the subdivider in hearings before the Commission. In the event any lot or lots within a proposed subdivision are to be served by one or more private access easements, restrictive covenants as required by Section 5-B-5-(c) of this Ordinance shall be included in the Deed of Dedication of the property and in the deed of conveyance for each lot so served.
- 4-G-5 Additional time may be granted the applicant for submission of revised plans, or the Commission may require additional time for review of a Preliminary Plat stating its reasons for doing so in writing.
- 4-G-6 Conditional approval by the Commission shall not obligate the Commission to approve the Record Plat.
- 4-G-7 Term of Validity of Preliminary Plats
(12/7/2010)
- 4-G-7-(a) Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days written notice by certified mail to the subdivider, the Zoning Administrator may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.
(12/7/2010)
- 4-G-7-(b) Once an approved final subdivision plat for all or a portion of the property is recorded, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.
(12/7/2010)
- 4-G-8 No property shall be transferred or offered for sale, nor shall a permit to build be issued, on the basis of an approved Preliminary Plat.
- 4-G-9 The Commission may act upon the plat submitted as a Preliminary Plat and as a Record Plat, in accordance with the criteria provided in this Article for actions on the Preliminary and Record Plat. Such action may be taken, if requested to do so by the applicant, if the plan submitted conforms to the requirements of this Ordinance for a Record Plat, and if all necessary supporting documents have been filed.

4-H SUBMISSION OF PLANS AND PROFILES

- 4-H-1 The following items shall, when necessary, be submitted to the Commission after final approval of the Preliminary Plat and before submission of the Record Plat:
 - 4-H-1-a Five copies of the complete Construction Plans and Profiles, including storm sewer design computations and storm water inlet computations.
 - 4-H-1-b Five copies of the Construction Specifications and Plans for structures such as parking areas, drainage systems and/or structures, or any special structures or systems the Planning Commission may decide warrant individual engineering review.
 - 4-H-1-c Five copies of Traffic Control Plan, including all signs, signals, street signs or other devices for traffic control.
- 4-H-2 Copies of the above items shall be distributed by the Commission to the Virginia Department of Transportation or any other agency deemed necessary for review of said documents.
- 4-H-3 No Record Plat shall be accepted for review by the Planning Commission until all the aforementioned items have been reviewed and approved by the appropriate authorities.

4-I SUBMISSION OF RECORD PLAT

- 4-I-1 After approval of the Preliminary Plat, ten copies of the Record Plat, at least four of which shall evidence original signatures for all required certificates and approvals, shall be submitted to the Zoning Administrator not less than 15 days prior to the Commission meeting at which consideration thereon is desired.
- 4-I-2 Upon receipt of the Record Plats and all documents and requirements as specified in Article 7 of this Ordinance, the Zoning Administrator shall determine that the Record Plat and documents comply with all applicable rules and regulations, all applicable decisions of the Commission, and all conditions imposed at the time of conditional approval, if any, of the Preliminary Plat.

4-J ACTION ON RECORD PLAT

- 4-J-1 Within 60 days of the date of the meeting of the Planning Commission at which the Record Plat and all other required items are submitted to the Commission, the Commission shall approve, conditionally approve, or deny said Record Plat.
- 4-J-2 The Commission shall approve the Record Plat, provided:
 - 4-J-2-a The Commission finds that the Record Plat is substantially in accordance with the approved Preliminary Plat and the requirements and provisions of this Ordinance, and that all supporting documents and other items required by this Ordinance and/or the Commission are satisfactory;
 - 4-J-2-b The Commission finds that all certificates and approvals by other public officials and the performance bond, check, or other acceptable surety required by Town of Boyce and/or other political subdivisions and public agencies are adequate; and

- 4-J-2-c The Commission finds that nothing has come to the attention of the Commission subsequent to its approval of the Preliminary Plat that indicates that the proposed subdivision is materially adverse or contrary to the requirements and purposes of this Ordinance, or is detrimental to the public health, safety, or general welfare.

- 4-J-3 Otherwise, the Commission shall deny the Record Plat.

- 4-J-4 If the Commission conditionally approves the Record Plat, the conditions shall be set forth in writing.

- 4-J-5 If the Commission denies the Record Plat, the reasons for the denial shall be set forth in writing, which reasons shall identify deficiencies in the Record Plat that caused the disapproval by reference to specific adopted ordinances, regulations, or policies, and, if there are specific corrections or modifications that will permit approval of the Record Plat, such corrections or modifications shall be generally identified. Any Record Plat that is disapproved shall be subject to the provisions of Section 4-C-2.

4-K RECORDATION OF PLATS

(12/7/2010)

4-K-1

(12/7/2010)

Any owner or proprietor of any tract of land within the Town of Boyce, Virginia, who subdivides the same as herein provided, shall cause a plat of such subdivision to be made in accordance with the regulations set forth in this Ordinance and in the Virginia Land Subdivision and Development Act, and shall further cause a copy of such plat evidencing approval as required herein and a copy of a Deed of Dedication, as may be required herein, to be recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia.

4-K-2

(12/7/2010)

No subdivision plat shall be recorded unless and until it shall have been submitted to and approved by the Boyce Town Planning Commission as herein provided and is in full accordance with the regulations set forth in this Ordinance.

4-K-3

(12/7/2010)

No subdivision plat shall be recorded unless all the monuments shown and described on the Record Plat are in place as evidenced by the certificate of a licensed surveyor endorsed on said Plat.

4-K-4

(12/7/2010)

A record plat shall become null and void if it is not submitted to the Clerk of the Circuit Court of Clarke County for recordation within six months from the date evidencing approval by the Planning Commission. The Commission may approve a longer period before recordation is required. The owner of the property being subdivided must submit a written request to the Zoning Administrator for such a longer period within six months of the date of the Commission's original approval. In any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the Planning Commission, or where the developer has furnished surety to the Planning Commission by certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of such facilities, the time limit for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the Planning Commission,

which ever is greater.

4-K-5
(12/7/2010)

Recordation of the Record Plat of a subdivision shall not be deemed to be the acceptance by the Town of any street or road or other public place shown on the plat for maintenance, repair or operation thereof.

4-L BURDEN OF PROOF

The burden of proof shall be on the applicant to show that the subdivision and the plats submitted meet the requirements of this Ordinance, including the provisions of Sections 4-G-2 and 4-J-2.

5 DETAILS OF PLAT REQUIREMENTS

5-A EXPLORATORY SKETCH PLANS

- 5-A-1 The Exploratory Sketch Plan of a proposed subdivision shall be clearly and legibly drawn to a scale of one inch equals not more than two hundred feet.
- 5-A-2 Where the Exploratory Sketch Plan shows the proposed subdivision of only a portion of the subdivider's total property, the proposed subdivision shall be so located and related to the remainder of said property.
- 5-A-3 The Exploratory Sketch Plan shall contain at least the following applicable data, legibly drawn to scale, but not necessarily showing precise dimensions:
- 5-A-3-(a) Approximate tract boundaries and existing and proposed zoning districts accurately labeled.
 - 5-A-3-(b) North point, scale, and date, including month and year the original drawing was completed, and the month, day, and year the original drawing was revised.
 - 5-A-3-(c) Significant topographic and physical features, such as, but not limited to:
 - Water Courses
 - Swamps or Marshes
 - Wooded Areas
 - Flood Plains
 - Natural Swales
 - 5-A-3-(d) Existing streets, utility and drainage easements within the tract and adjacent to it.
 - 5-A-3-(e) Sketch Vicinity Map showing relationship between the subdivision and surrounding area.
 - 5-A-3-(f) Site data:
 - Acreage in Tract
 - Average Lot Size
 - Approximate Number of Lots
 - Acreage in Parks and Other Land Usage
 - 5-A-3-(g) Name and address of owner and/or subdivider and registered civil engineer, certified land surveyor, or land planner, if any, responsible for the preparation of the Exploratory Sketch Plan.

5-B PRELIMINARY PLAT

- 5-B-1 The Preliminary Plat shall be clearly and legibly drawn to a scale of one inch equals not more than two hundred feet.
- 5-B-2 The Preliminary Plat shall contain at least the following applicable data:
- 5-B-2-(a) The scale, north point and date.

- 5-B-2-(b) The proposed name of the subdivision (the name shall not duplicate nor too closely approximate that of any existing subdivision in this or neighboring counties).
- 5-B-2-(c) The name, address, and signature of the owner of record, the name and address of the subdivider, and the name and address of the engineer or surveyor preparing the plat.
- 5-B-2-(d) Number of sheets comprising the plat.
- 5-B-2-(e) Magisterial District, County, and State.
- 5-B-2-(f) Sources of data used in preparing the plat, including, but not limited to, plats of record and the deed book and page number of the last instrument in the chain of title.
- 5-B-2-(g) Names of all adjoining property owners.
- 5-B-2-(h) Boundary survey or existing survey of record.
- 5-B-2-(i) Zoning Requirements: A notation setting forth the zoning district, the building setback requirements for principal structures from front, side and rear lot lines, and the purpose, residential or otherwise, for which the proposed lots are to be used. Such notation shall further set forth reference to an outline of any variance, special exception, special use permit, and/or conditions established pursuant to conditional zoning with respect to the subject property.
- 5-B-2-(j) Notation for the provision of street trees in the Residential zoning district.
- 5-B-3 The Preliminary Plat shall show the location of the proposed subdivision by an insert vicinity map drawn to a scale of one inch equals not more than two thousand feet and indicating thereon:
 - 5-B-3-(a) The boundary lines of the proposed subdivision and of any larger tract of which the subdivision forms a part.
 - 5-B-3-(b) All adjoining roads and streets with their numbers and/or names.
 - 5-B-3-(c) All subdivisions, town boundary lines, and other landmarks, if any, within one mile.
- 5-B-4 The Preliminary Plat shall show the following:
 - 5-B-4-(a) Boundary lines and total acreage of the proposed subdivision, and the acreage remaining in the original tract, if any. A proposed future subdivision of the acreage remaining in the original tract shall be shown on the Preliminary Plat including the anticipated boundaries of the future subdivision and the anticipated street locations. In subdivisions to be developed in sections, the plat submitted shall comply with provisions of Section 9-D of this Ordinance.
 - 5-B-4-(b) Location of existing buildings within the subdivision and within 200 feet thereof.
 - 5-B-4-(c) Location and width of each proposed street, easement, including utilities and drainage easements, parking area, or other public or private right-of-way within and abutting the subdivision. Location and width of all adjoining roads and streets with their names and/or numbers.

- 5-B-4-(d) Lots: All proposed lot lines showing dimensions, total number of lots, proposed block and lot numbers, area of each lot.
- 5-B-4-(e) The proposed building restriction lines, shown as dashed lines and labeled as such.
- 5-B-4-(f) All applicable platting requirements of the Virginia Department of Transportation in connection with each proposed street and public right-of-way.
- 5-B-4-(g) Location and size in acres of land, if any, to be dedicated or reserved for public use, or for the common use of future property owners in the subdivision.
- 5-B-4-(h) Location and description of all existing monuments.
- 5-B-4-(i) Utilities, existing and proposed. Appropriate easements for the placement of all proposed utilities underground shall be required pursuant to Section 8-G of this Ordinance.
- 5-B-4-(j) Location of all pertinent natural and historical features and landmarks including:
1. Perennial streams and springs, intermittent streams, and other surface water features as identified by the U.S. Geological Survey;
 2. Sinkholes as identified by the Soil Survey of the U.S. Soil Conservation Service and/or confirmed by on site inspection;
 3. The 100 year flood plain of Roseville Run and Page Brook as identified by a professional engineer;
 4. Major land cover, including general locations of wooded areas or individual trees, within 100 feet of perennial streams and springs and 50 feet of intermittent streams;
- 5-B-4-(k) If extensive changes of topography are contemplated, a plan showing the changes proposed.
- 5-B-4-(l) Reference to and outline of proposed deed covenants, a copy of which shall accompany the Preliminary Plat. In the event any lot, or lots, are to be served by one or more private access easements, the reference to and outline of proposed deed covenants shall include a statement that such private access easements are not a part of any public road system and that at no time will the Town of Boyce or the Virginia Department of Transportation accept responsibility for the construction, upgrading and/or maintenance of such easements. Before any future request for the acceptance of such easements for maintenance as part of the Secondary System of State Highways, such easement or easements shall be made to comply with the prevailing Subdivision Street Requirements of the Virginia Department of Transportation, or to another standard deemed acceptable by such Department, at no cost to funds administered to it.
- 5-B-4-(m) Topographic map on a scale of one inch equals not more than two hundred feet, and contour intervals of five feet or less showing all the area covered by the subdivision.
- 5-B-4-(n) Location of all required street trees and a statement regarding the maintenance and replacement of such trees.

- 5-B-5 Items to Accompany Preliminary Plat
- 5-B-5-(a) Statement by the subdivider acknowledging that any topographic studies or other requirements of the Health Official and/or Commission, in addition to and pursuant to Article 6, Section K, will be carried out at the expense of the subdivider
- 5-B-5-(b) If it is proposed to dedicate or reserve land (other than for streets) and private access easements for public use, or for the common use of future property owners in the subdivision, a statement by the subdivider to that effect, giving an outline of the terms proposed and acreage involved.
- 5-B-5-(c) If it is proposed that access to any lots will be served by private access easement, a copy of proposed restrictive covenants stating the terms and provisions for construction and maintenance of such easements. These covenants shall further state that such easements are not a part of any public road system and that at no time will the Town of Boyce or the Virginia Department of Transportation accept responsibility for construction, upgrading and/or maintenance of such easements. Before any future request for the acceptance of such easements for maintenance as part of the Secondary System of State Highways, such easement or easements shall be made to comply with the prevailing Subdivision Street Requirements of the Virginia Department of Transportation, or to another standard deemed acceptable by such Department, at no cost to funds administered by it.
- 5-B-5-(d) Critical Environmental Areas and Common Open Space (CEA/COS) Management Plan. The CEA/COS Management Plan shall set forth the design and management of critical environmental areas and any common open space areas, including covenants, agreements or other specific documents, showing the ownership, method of maintenance, and utilization of those areas within the subdivision.
- 5-B-5-(e) Consumer Disclosure Statement
1. Every application for subdivision of land shall include, as a part of said application, a Consumer Disclosure Statement provided, however, that this requirement may be waived or modified in whole or in part by the Zoning Administrator where he/she does not deem such Statement to be material. Unless otherwise modified by the Zoning Administrator, the Consumer Disclosure Statement shall include the following:
 - a. The name and address of each person having a beneficial interest in the land proposed to be subdivided and the extent of such interest.
 - b. The state of formation and the name and address of the person upon whom legal service may be made, if a corporation, trust, partnership, unincorporated association, or other form or organization has a beneficial interest in said property.
 - c. A statement of the condition of the title to the land comprising the subdivision, including all encumbrances, deed restrictions, covenants applicable thereto, and including a reference to all deeds or other instruments by which the current owner acquired title to the property.
 - d. A statement as to how consumers purchasing land in the subdivision will be protected with respect to any encumbrances on the property.
 - e. A statement of the means and the present condition of access to the property and to lots within the proposed subdivision from a public road. If such access from a public road is served by an existing and otherwise legal private road, a statement of the terms and provisions for maintenance of such road, including a statement that at no time will the Town of Boyce or the Virginia Department of Transportation accept responsibility for the upgrading and/or maintenance of such road. If any lots within

the proposed subdivision are to be served by one or more private access easements, a statement of the terms and provisions setting forth responsibility for construction and maintenance of such easements, including a statement that at no time will the Town of Boyce or the Virginia Department of Transportation accept responsibility for construction, upgrading, or maintenance of such private access easements.

- f. A statement of the availability of sewage disposal facilities, water, electricity, gas, telephone, and fire and police protection, with an estimate of the cost of such to consumers purchasing property in the subdivision.
 - g. A statement of the nature of improvements to be made to the property by the subdivider for the benefit of the purchasers, and the estimated schedule for completion of said improvements.
 - h. Such other information or documents, including financial information, as the Commission or Council may require as being reasonably necessary or appropriate for the protection of consumers.
 - i. Where appropriate, copies of covenants, contracts, or other writings whereby provision is made for supplying common necessities and maintaining common areas after development is completed.
 - j. Representations made in the Consumer Disclosure Statement shall constitute covenants running to the benefit of purchasers in the subdivision and adjacent landowners and shall be enforceable by such persons.
2. The Commission may require the subdivider to provide additional information or amplification with respect to the Statement, whether or not initially considered material by the Zoning Administrator, where the Commission considers such to be material.
 3. The Consumer Disclosure Statement shall be recorded with and shall be considered part of the subdivision plat. The sellers of property, described by a subdivision plat, shall provide a copy of the Statement to all purchasers.

5-C RECORD PLAT

- 5-C-1 The Record Plat shall be prepared by a surveyor or engineer, duly licensed by the Commonwealth of Virginia. This person shall endorse upon such plat a certificate signed by him/her setting forth the source of title of the land subdivided, and the place of record of the last instrument or instruments in the chain of title.
- 5-C-2 The Record Plat shall be in accordance with the approved Preliminary Plat (together with any changes or additions required by the Planning Commission as a condition for its approval).
- 5-C-3 In addition to the requirements of the Preliminary Plat, the Record Plat shall include the following:
- 5-C-3-(a) The original tracings shall be legibly and accurately drawn in black india ink with a margin of one-half inch outside ruled borderlines.

- 5-C-3-(b) The plat shall be drawn at a scale of one inch equals not more than 100 feet for any subdivision having lots less than three acres in area, or at a scale of one inch equals not more than two hundred feet for any subdivision having lots of three acres or more in area. The Commission may, at its discretion, permit different suitable scales for plats of dedication or other special plats.
- 5-C-3-(c) If the subdivision is shown on more than one sheet, the sheet number, total number of sheets and subdivision name shall be shown on each sheet, and match lines shall clearly indicate where the several sheets join.
- 5-C-3-(d) Location of water, sanitary sewer, and storm sewer systems
- 5-C-3-(e) Accurate locations and dimensions of all lot and street lines and center lines of all streets, both within and adjoining the subdivision, together with the names and width of all such streets.
- 5-C-3-(f) Boundaries of all easements, school sites, parks or other public areas.
- 5-C-3-(g) Building setback lines shown as dashed lines with dimensions to front property line along each street, and length of setback line within each lot.
- 5-C-3-(h) All dimensions shown in feet and decimals of a foot to the closest 1/100 of a foot; and all bearings in degrees, minutes and seconds to the nearest 10 seconds.
- 5-C-3-(i) The data for all curves shall be shown in detail at the curve or in a curve data table containing the following: Radius, delta, arc, tangent, chord and chord bearing, including bearings and distances of corners to the nearest recorded property corners or monuments.
- 5-C-3-(j) If any land is being dedicated or reserved for streets, easements, parking space, septic drainfield areas, or for public or private use, or for the common use of future property owners of the subdivision, the Record Plat shall so state and indicate which.
- 5-C-3-(k) The Record Plat shall contain a correct description of the land being subdivided and a statement to the effect that the said subdivision is with the free consent and in accordance with the desire of the undersigned, executed by the owners or trustees of the property, and shall be duly acknowledged in accordance with Section 15.2-2224 of the Code of Virginia.
- 5-C-3-(l) The Record Plat shall provide space, preferably in the lower right hand corner, and contain suitable lettering for:
1. The surveyor's certificate, as to title.
 2. The surveyor's certificate, as to monuments.
 3. All restrictive covenants, or outline of and reference thereto, in accordance with Section 5-B-4-(n) of this Ordinance.
 4. The owner's certificate.
 5. Certificate of approval of the Zoning Administrator.
 6. Certificate of approval by the Planning Commission.
 7. Certificate of approval signed by the Health Official evidencing conformity with the requirements of the Health Department with respect to individual on-site subsurface septic systems and potable water supply systems, as applicable.

5-C-4 Documents to Accompany Record Plats

When delivered to the Zoning Administrator, the Record Plat shall be accompanied by the following documents:

- 5-C-4-(a) Certificate signed by the Clarke County Treasurer and Boyce Town Treasurer evidencing payment of all applicable taxes.
- 5-C-4-(b) A certificate signed by an authorized official of the Clarke County Sanitary Authority stating that the performance bond or other acceptable surety referred to in the following Section 5-C-4-(c) is adequate to insure the installation of such water or sewerage facilities in a manner which will satisfy the requirements of both the County Health Department and the Sanitary Authority, as applicable.
- 5-C-4-(c) If all improvements required under the provisions of this Ordinance are not completed, a cash bond, or other surety acceptable to the Town Council, or in lieu thereof, certification from the applicable federal, state or local political subdivision, department, or agency evidencing the acceptance of satisfactory surety as required by Section 8-B.
- 5-C-4-(d) Certificate signed by the Town Engineer that all streets, parking areas, street signs, and drainage systems required, if already constructed by the subdivider, are approved as being in conformance with the Record Plat and requirements of this Ordinance; or, if they are not yet constructed, that the surety performance bond or certified check referred to in the preceding Section 5-C-4-(c) is adequate to guarantee satisfactory and acceptable installation thereof within a designated reasonable time.
- 5-C-4-(e) Check payable to the Treasurer of Clarke County to cover fees required.
- 5-C-4-(f) An unexecuted copy of the proposed deed of dedication accompanied by a certificate signed by the subdivider and duly acknowledged before some officer authorized to take acknowledgments of deeds, to the effect that this is a true copy of the proposed deed of dedication which will be presented for recordation. Said deed of dedication shall:
1. Contain a correct description of the land subdivided and state that said subdivision is with the free consent and in accordance with the desire of the undersigned owners, and the undersigned proprietors and trustees, if any.
 2. Contain language such that when the deed is recorded, it shall operate to transfer in fee simple to Clarke County or to other applicable political subdivisions, departments, or agencies such portion of the platted premises as on such plat is set apart for public streets, easements, or other public use, and to create a public right of passage over the same, and that all such dedicated rights-of-way are guaranteed and are unrestricted and unencumbered. This provision shall not apply to any private access easement.
 3. Contain all protective or restrictive covenants, including those covenants required, pursuant to Section 4-G-4 where the Preliminary Plat has been conditionally approved.
- 5-C-4-(g) In cases where land or facilities are to be dedicated to, and held in perpetuity by, a homeowner's association, copies of all approved homeowner's association documents shall be submitted and retained in the files of the Commission.

5-C-4-(h) In the event of any subdivision of five or more lots, a copy of approved sedimentation and erosion control measures proposed on advice by a designated agent of the Lord Fairfax Soil and Water Conservation District.

6 DESIGN REQUIREMENTS

6-A DESIGN PRINCIPLES

- 6-A-1 The quality of design of a community is dependent on the quality of design of the individual subdivisions that are included in it. Good community design requires the coordination of the efforts of each subdivider and developer of land within the County. Therefore, the design of each subdivision shall be prepared in accordance with the principles and recommendations established by the Comprehensive Plan for land use circulation, community facilities and public services, and in accordance with the following general principles:
- 6-A-1-(a) The size of lots and blocks and other areas for residential, commercial, industrial, and public uses shall be designed to provide adequate light, air, open space, landscaping, and off-street parking and loading facilities.
- 6-A-1-(b) The arrangements of lots and blocks and the street system shall be designed to protect solar access and to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees shall be preserved, wherever possible and when consistent with the provisions of this Ordinance. Any system of sidewalks and roadways and the lot layout shall be designed to take advantage of the visual qualities of the area.
- 6-A-1-(c) Traditional village building and site development patterns are encouraged. These patterns have generally rectilinear arrangement of streets and blocks that provide for interconnection within new development and between new development and the existing Town. Use of neighborhood greens, landscaped streets, and boulevards (with medians) is encouraged to provide space for social activity, visual enjoyment, and for a balanced mix of pedestrians and automobiles.

6-B BLOCKS AND LOTS

- 6-B-1 Blocks shall not be less than 400 feet nor more than 800 feet in length. Block width shall be sufficient to allow two tiers of lots of minimum depth. Variation on block dimensions or provision for a single tier of lots of minimum depth may be approved by the Commission so as to avoid lot frontage on primary highways or where natural features (such as topography or streams) dictate environmentally sensitive design.
- 6-B-2 The lot area, width, depth, shape and orientation shall be appropriate for the location of the subdivision, for the type of development and use contemplated. The minimum building setback lines shall be in accordance with the lot arrangement, design, and shape. The lot configuration and building setbacks shall provide satisfactory and desirable sites for home or buildings, recognizing natural terrain and conforming to this Ordinance. All lot sizes shall conform to the Zoning Ordinance in effect in the Town of Boyce at the time of filing of a Preliminary Plat. Lots shall not contain peculiarly shaped elongations, solely to meet lot size or frontage requirements that would be unusable for normal purposes.

- 6-B-3 Except where otherwise specifically provided for in this Ordinance or the Zoning Ordinance, all lots shall front on a public street. Residential lots should not front on primary highways. Side lot lines shall be approximately at right angles, or radial to the street line.
- 6-B-4 Corner lots shall have a width sufficient to conform to required building setback lines and Zoning Ordinance requirements on both streets, and to provide adequate building sites.
- 6-B-5 In the case of lots for residential purposes, the building setback line shall conform to the requirements of the Town of Boyce Zoning Ordinance. Except, the Commission may require a greater setback if the Commission finds that health and/or safety conditions make a greater setback necessary.
- 6-B-6 In the case of lots for commercial, industrial, or non-residential use, the lot area, width, depth, shape, and orientation, and the minimum building setback lines, shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lot configuration and building setbacks shall be in accordance with the requirements of any existing Zoning or other applicable ordinance, and shall be adequate to provide for the service and parking facilities required by the type of use and development contemplated.
- 6-B-7 Double frontage or reversed frontage lots should be avoided except where they are deemed necessary by the Planning Commission to provide for the separation of residential development from primary highways or to overcome specific disadvantages of topography and orientation. A landscape buffer easement of at least 15 feet shall be provided along the portion of such lots abutting such a primary highway or other use where screening is required. The buffer shall be designed in accord with Zoning Ordinance Section 6-H-9, Landscape Design Standards. There shall be no right of access across a landscape buffer easement, provided that the plans for such planting screens or fences shall be submitted for approval with the Record Plat.
- 6-B-8 All remnants or out lots, below the minimum size permitted, remaining after subdividing a tract, must be added to adjacent lots or common open space rather than remain as unbuildable or peculiarly shaped parcels not in keeping with the intent of this Ordinance.

6-C STREETS

- 6-C-1 The arrangement, character, extent, width, grade, and location of all streets and roads shall conform to the Town of Boyce Comprehensive Plan and shall be designed and constructed in accordance with Virginia Department of Transportation specifications. The Planning Commission shall have the right of review and approval or denial of the

arrangement, character, extent and location of proposed streets within a subdivision.

- 6-C-2 When a subdivision abuts one side of any public street in the state highway system, the subdivider shall be required to dedicate one-half of the right-of-way necessary to make said street conform to Virginia Department of Transportation or Town criteria. In addition, the subdivider may be required to dedicate the full right-of-way necessary to make horizontal and vertical adjustments to said street.
- 6-C-3 The design of local streets located so as to provide direct routes to through traffic shall conform to Virginia Department of Transportation criteria based on projected volumes.
- 6-C-4 Streets shall connect with existing streets and shall provide access to possible adjoining subdivisions as required by the Commission.
- 6-C-5 Names of new streets shall not duplicate or be confused with names of existing streets in the Town of Boyce or Clarke County. If the new street is a continuation of, or in alignment with, an existing or platted street, the name shall be the same. New street names shall not include the designations "Lane" or "Road". Street names shall be subject to approval of the Planning Commission.
- 6-C-6 (4/5/11) Curb and gutter (CG-6 or approved equivalent) shall be required on all new public streets. Curb and gutter design shall comply with Virginia Department of Transportation design standards. However, 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-C-7 Streets shall be so designed as to provide adequate drainage and drainage facilities and to have geometric design in compliance with the requirements of the Virginia Department of Transportation.
- 6-C-8 Reserve strips controlling access to streets shall be prohibited except in cases of limited access roads.
- 6-C-9 Whenever a proposed subdivision contains or is adjacent to a primary highway, the Commission may require reverse frontage (with a landscape buffet as described above contained in a non-access reservation along the rear property line, deep lots), or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- 6-C-10 Cul-de-sacs shall be permitted only where no other arrangement of streets provides reasonable access to proposed lots. Cul de sacs shall be no longer than 600 feet. They shall be permitted only with the concurrence of the Planning Commission and the Virginia Department of Transportation. They shall be designed and constructed in accordance with the specifications and requirements of said Department.

- 6-C-11 Street jogs with centerline offsets of less than 225 feet shall be avoided.
- 6-C-12 (5/3/11) Street right-of-way width and street sections shall be in accordance with the requirements and specifications of the Virginia Department of Transportation and dedicated as a public road except as specified in section 6-D of this ordinance, Private Access Easements, and Zoning Ordinance Sections 3-A-1-h and 3-A-2-h, Additional Regulations for Parking, Streets, and Access in the Residential and Business Zoning Districts. Any and all such streets constructed in accord with section 6-D, which by definition will not be constructed to meet the standards necessary for inclusion in the system of state highways, will be privately maintained and will not be eligible for acceptance into the system of the state highways unless improved to current VDOT standards with funds other than those appropriated by the Virginia General Assembly and allocated by the Commonwealth Transportation Board.
- 6-C-13 Vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which minimizes marginal traffic friction and promotes free traffic flow on streets without excessive interruption.
- 6-C-14 Streets shall be laid out in such a manner as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 80 degrees.
- 6-C-15 One large canopy tree (see Zoning Ordinance Section 6-H-9, Landscape Design Standards) shall be planted on each lot in a subdivision in the Residential Zoning District. Such trees shall be planted before a certificate of occupancy is issued for any structure constructed on the lot requiring a building permit. The tree shall be planted:
1. not more than six feet from a public right of way or private access easement,
 2. at least three feet from any side property line, and
 3. at least 20 feet from any other tree required by this section or any existing tree with a caliper of at least six inches.
- The Commission may vary these requirements per Section 7-E.
- 6-C-16 In order to serve the public convenience and good, the Planning Commission and/or the Town Council, upon a recommendation of the Commission, and with concurrence of the Resident Engineer, may require standards, specifications and requirements for streets and related provisions for drainage that exceed such minimum standards, specifications and requirements of the Virginia Dept of Transportation.
- 6-C-17 (5/4/04) No property shall be subdivided whereby the uses on the proposed lots shall cause the volume of traffic on any town maintained street to exceed 250 average daily vehicle trips (ADT).

6-D PRIVATE ACCESS EASEMENTS

- 6-D-1 Construction of any Private Access Easement shall comply with all applicable provisions of the Clarke County Soil Erosion and Sedimentation Control Ordinance.
- 6-D-2 No Private Access Easement approved pursuant to the provisions of this Ordinance shall provide thoroughfare to subdivisions of adjoining property, unless such adjoining property is a part of the original tract as it existed on the date of approval of such easement.
- 6-D-3 All Private Access Easements shall have a minimum 30 foot right-of-way.
- 6-D-4 No telescoping, stacking, paralleling, or similar design configuration of multiple Private Access Easements shall be permitted.
- 6-D-5 Private Access Easements shall have travel ways with:
 - 6-D-5-(a) a minimum design speed of 10 miles per hour;
 - 6-D-5-(b) a minimum radius of 30 feet, measured along the centerline of the travel way;
 - 6-D-5-(c) a maximum grade of 8%, measured along the centerline of the travel way;
 - 6-D-5-(d) a minimum stopping sight distance of 50 feet (distance is based on a 3.5 foot height of eye and a .5 foot height of object);
 - 6-D-5-(e) a minimum intersection sight distance of 100 feet (distance is based on a 3.5 foot height of eye and a 4.25 foot height of object);
 - 6-D-5-(f) a travel way crown with a maximum of 1/2 inch per foot and a minimum of 1/4 inch per foot;
 - 6-D-5-(g) an all weather minimum travel way surface with a minimum width of 14 feet;
 - 6-D-5-(h) drainage facilities to allow a 14 foot wide travel way on the roadway during the 2 year storm event;
 - 6-D-5-(i) a maximum length of 300 feet.

6-E PEDESTRIAN CIRCULATION

Sidewalks shall be provided on both sides of public streets. Additional pedestrian walkways shall be provided when necessary to provide for the safe and convenient movement of pedestrians through the subdivision and between the subdivision and the Town. All plans for sidewalks and other pedestrian walkways shall be included in any plans and profiles as required in Article 5 of this Ordinance and shall meet Virginia Dept of Transportation design standards.

6-F CRITICAL ENVIRONMENTAL AREAS AND COMMON OPEN SPACE MANAGEMENT PLAN

Common open space shall be landscaped in a manner consistent with the site, preserving existing healthy trees and planting large canopy shade trees and living ground cover. There shall be at least one large canopy shade tree (either existing or planted) for each 10,000 square feet of common open space (see Zoning Ordinance Section 6-H-9, Landscape Design Standards, for species and size specifications). The common open space and any recreational facilities shall be located, arranged, and designed based on the principles of defensible space that minimizes the opportunity for criminal activity. The proposed method of ownership and maintenance in perpetuity of such areas shall be acceptable to and approved by the Commission, and must be set forth in the deed of dedication recorded at the time of recordation of the Record Plat.

6-G PUBLIC FACILITIES

Where a proposed park, playground, school, public safety facility or other public use shown on the Town of Boyce or Clarke County Comprehensive Plan is located in whole or part in a subdivision, the Planning Commission may require the dedication or reservation of sites meeting the requirements for schools, parks, public safety facilities and other neighborhood purposes. Public sites shall be made available by a means acceptable and approved by the Commission.

6-H UTILITY EASEMENTS

- 6-H-1 Utilities shall be installed or easements for such utilities shall be provided and delineated on the Record Plat in the location and to the width designated by the Commission after receiving recommendations from the agencies responsible for the installation of same. In no case shall an easement be less than 10 feet in total width.
- 6-H-2 Utility and cable television transmission lines shall be placed underground.
- 6-H-3 Where practical, utility easements shall be provided on each side of all rear lot lines, and along side lot lines where necessary for utility installation and maintenance.
- 6-H-4 Public utility installations should be so located as to permit multiple installations within the easements.
- 6-H-5 When it is proposed to place public utilities within the rights-of-way shown for public streets on a Record Plat, such utility installations shall be coordinated with the street construction plans and profiles as approved by the Resident Engineer. Such installations shall be performed in accordance with all requirements of said Department.

6-I UNSAFE LAND

As a safety measure for the protection of the health and welfare of the people of the Town of Boyce, the Planning Commission shall reserve the right to disapprove any subdivision with parcels or streets subject to periodic flooding, is topographically unsuitable, contains extremely poor drainage facilities, unstable soil conditions, man-made conditions such as, but not confined to, unstable fills or slopes, or has other

physical impairment to safe development.

6-J DRAINAGE

- 6-J-1 (4/5/11) Subdivisions shall be protected from flood hazard and inundation by storm water, springs, and other surface waters. The design and construction of drainage facilities shall be such that all water courses traversing the subdivision and water emanating from outside and/or within the subdivision will be carried through and off the subdivision without creating an adverse drainage condition to roadway, residential sites, or residences to be installed within the tract, and without any damage to roadways, residential sites, residences, structures, farmland, or open space abutting or in the vicinity of the tract. Stormwater Management shall be designed and installed as described in Boyce Town Code Section 152. Stormwater Management.

6-K FLOOD PLAINS

- 6-K-1 The Planning Commission, for the health, safety, and general welfare of the present and future inhabitants of the Town of Boyce and Clarke County, shall control the subdivision for development of any property which lies within a 100-year flood plain, in accordance with the following provisions:

6-K-2 Flood Plain Easement

- 6-K-2-(a) In a proposed subdivision which includes property within a flood plain along a stream or other watercourse which is to be left in its natural state, the flood plain shall be shown on the plat of the subdivision as a flood plain easement across the lots located in such flood plain.
- 6-K-2-(b) No use will be permitted in a flood plain easement area which will obstruct the flow of water or alter flood heights in other areas. The flood plain area may be used for utility lines, storm drainage facilities, and such other facilities as are authorized by the Zoning Ordinance, so long as such uses do not obstruct the flow of water or alter flood heights in other areas.
- 6-K-2-(c) Land within the flood plain easement area may be designated and used as a public park or recreation area, provided it is maintained by a responsible public authority or maintained by a means acceptable to the Planning Commission.
- 6-K-2-(d) In determining whether a lot which contains a flood plain easement satisfies the requirements of the Zoning Ordinance with respect to lot size or open space, the area within the flood plain easement may be included if the lot includes a suitable site for a flood-free building (a building in which the lowest floor, including basement, is above the level of a 100 year flood).

6-K-3 Flood Plain Study

If an area in a proposed subdivision along a river, stream, or other watercourse which is subject to periodic flooding has not had a flood plain specifically delineated by the United States Corps of Engineers or the United States Geological Survey, the subdivider shall be required to show the flood plain on the plat of the property to be subdivided. The limits of such flood plain shall be located by a flood plain study prepared by an engineer, or by such other qualified person or method as approved by the Commission.

7 GENERAL REGULATIONS

7-A MUTUAL RESPONSIBILITY

There is a mutual responsibility between the subdivider and the Town of Boyce to divide the land in such a way as to insure the best general use pattern of the land being subdivided, and to avoid adverse impact on other properties.

7-B TRANSFERS, SALES AND PERMITS TO BUILD

No property in a subdivision shall be transferred or offered for sale by reference to, or exhibition of, or by other use of, a plat of a subdivision, nor shall a permit be issued for a structure thereon, until a Record Plat and such subdivision shall have been approved, as provided herein, and such Plat and a Deed of Dedications, as may be required pursuant to Sections 4-G-4 and 5-B-5-(c) herein, have been recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia.

7-C SUBDIVISION NOT EXEMPT FROM OTHER LAWS

The creation of a subdivision shall in no way exempt the land included within it from the provisions of zoning or other ordinances or laws.

7-D SECTIONAL DEVELOPMENT

7-D-1 Where a proposed subdivision includes more than one section, the development sequence for all sections must be presented at the time the plat of the first section is submitted. When a property owner intends to apply for multiple subdivisions of his/her property, an Exploratory Sketch Plan of the entire property, pursuant to Section 5-A, shall be presented with the initial subdivision. If such a sketch plan is not submitted, a subsequent subdivision of the property shall not be accepted or considered until 12 months after approval of the initial subdivision.

7-D-2 If any area of the original tract is not included in the plat of the first section, there shall also be submitted a plat showing the anticipated boundaries of future sections. This plat shall show the anticipated street locations and contours of the land in the future sections together with a statement of anticipated lot sizes in the future sections.

7-E NORMAL REQUIREMENTS AND VARIATIONS

In laying out subdivisions, the requirements of Article 6 and Article 8 shall ordinarily be observed as minimum requirements. However, said requirements may be varied in specific cases by the Commission if it determines that a peculiar or special situation exists which makes it necessary or desirable to vary one or more of the said requirements. The Commission shall determine that any such variation is not in conflict with or, in the case of a more stringent requirement and that such variation is deemed necessary to carry out, protect, or provide for the public welfare or the purpose of this Ordinance. Any such variance and the reasons therefore shall be stated in writing in the minutes of the Commission of the action on the proposed subdivision.

7-F DEDICATION OF STREETS

The subdivider shall dedicate to the Town of Boyce for public use, all land required for streets in the subdivision, except land used as a Private Access Easement in accordance with the terms of this Ordinance. Approval of a Record Plat shall not be deemed acceptance by the Town Council of any street or other public space shown on such plat for repair, maintenance or operation thereof. No public easement or right-of-way shown on any recorded plat of subdivision shall be deemed accepted by the Town of Boyce for public use until such acceptance of proposed dedication shall first have been formally approved by the Town Council in meeting duly assembled. The Council shall not give approval until any such easement or right-of-way complies with all requirements of this Ordinance and of the Virginia Department of Transportation, and such other requirements as the Council may impose for public streets, roads and drainage.

7-G PLANNING COMMISSION AGENDA

Each plat submitted for preliminary or final approval shall be placed on the agenda of the Planning Commission only after fulfilling the appropriate plat and procedural requirements of the Ordinance.

7-H CONFLICTS IN REGULATIONS

Whenever regulations in this Ordinance are different from regulations contained in other Ordinances, the most restrictive regulations shall prevail.

7-I BOUNDARY LINE ADJUSTMENTS

The intent of this section is to provide for adjustments of property lines that do not conflict with the intent of this Ordinance and Section 15.2-2275 of the Code of Virginia (1950), as amended. Boundary line adjustments, which would conflict with this intent, are subject to subdivision review under provisions of this Ordinance.

7-I-1 The relocation or altering of property lines is permitted between adjoining lots in the Residential Zoning District where the total acreage in the subject lots is not increased, and no non-conformity as to setback or lot size is created or increased.

7-I-2 The relocation or altering of property lines is permitted between adjoining lots in the Business Zoning District where the total acreage in the subject lots is not increased, and no non-conformity as to setback or lot size is created or increased.

- 7-I-3 Boundary line adjustments are not permitted where the boundary line adjustment would alter a property line that is coincident with a zoning district boundary.
- 7-I-4 No more than one Boundary Line Adjustment application may be approved for any parcel during a one year period.

8 IMPROVEMENTS AND BONDS

8-A IMPROVEMENTS

8-A-1 Required Improvements

- 8-A-1-(a) The Commission shall require that the subdivider make the improvements provided for herein for Record Plat approval. Said improvements shall be installed at the cost of the subdivider and in compliance with the requirements of any or all plans and plats approved by the Planning Commission, Virginia Department of Transportation, Clarke County Sanitary Authority, Clarke County Health Department, or any other applicable state or local agency.
- 8-A-1-(b) No subdivider shall commence the construction of any such improvements without first submitting plans and specifications and obtaining the written approval of the Virginia Department of and Transportation, Clarke County Sanitary Authority, Clarke County Health Department, or any other applicable state or local agency.
- 8-A-1-(c) Any subdivider commencing any construction in violation of this Section shall be guilty of a misdemeanor, and punishable by fine of not more than \$1,000. Any person who knowingly continues construction after the issuance of a Stop Work Order by the Zoning Administrator, Building Official, or other representative of the Town, shall be punished by a fine of not more than \$1,000 and/or ten days in jail for each day said construction continues after issuance of the Stop Work Order.

8-A-2 Monuments

- 8-A-2-(a) Monuments shall be placed in the ground at all corners, angles, and points of curvature in the subdivision boundaries, in the right-of-way lines of all streets and other public areas within the subdivision, and at all corners. Said monuments shall be of iron pipe not less than one-half inch nor more than one inch in diameter, and not less than three feet in length.
- 8-A-2-(b) The top of all monuments shall be set no more than four inches or less than one inch above finished grade of the ground surface at their respective locations. Upon completion of subdivision streets, sewers, water lines, and other required improvements, the subdivider shall make certain that all required monuments are clearly visible for inspection and use.

8-A-3 Street Improvements

The subdivider of any subdivision shall lay out, grade, construct, and otherwise improve all streets that are designed on the approved Record Plat, or that directly serve the subdivision, in accordance with specifications of the Virginia Department of Transportation, or if more stringent, in accordance with the specifications established by the Planning Commission and/or the Town Council in conjunction with approval of the Record Plat. Furthermore, the subdivider shall maintain such streets to the standards of the Department of Transportation until such time that they are accepted into the State Road System for maintenance purposes.

- 8-A-3-(a) Streets situated on private access easements will not be maintained at public expense by either the Town of Boyce, the County of Clarke, nor the Virginia Department of Transportation, none of which will accept responsibility for the construction, maintenance, reconstruction or improvement of such streets. Maintenance of such streets shall be the responsibility of each lot owner provided access by such easement. Before such streets will be considered for addition and maintenance as part of the Secondary System of State Highways, such streets shall be made to comply with the prevailing Subdivision Street Requirements of the Virginia Department of Transportation, or to another standard deemed acceptable by such Department, at no cost to funds administered by it.
- 8-A-3-(b) Each deed of conveyance shall include the covenants cited in 8-A-3-(a) and each plat including a street situated on a private access easement shall include the following statement: "Maintenance of streets on private access easements shall not be maintained by the Town of Boyce, the County of Clarke, or the Virginia Department of Transportation at public expense."
- 8-A-5 Half Streets
- 8-A-5-(a) Half streets shall not be permitted except where such streets are essential to the reasonable development of the proposed subdivision in conformity with the other requirements of these regulations and where the Planning Commission finds it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided.
- 8-A-5-(b) When the Planning Commission deems it essential for the development and construction of a half street when a subdivision abuts one side of any public street which is in the State Highway System, the subdivider shall be required to construction street improvements, storm drainage facilities, pavement, curb and gutter, and sidewalk on the one-half of said street abutting said subdivision as may be required by the Planning Commission, upon recommendation of the Virginia Department of Transportation.
- 8-A-5-(c) Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
- 8-A-5-(d) Half streets shall not be less than one-half the standard width for the appropriate right-of-way as required by the Virginia Department of Transportation for that said street.
- 8-A-6 Drainage
- When required by the Planning Commission or the Virginia Department of Transportation, drainage systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from or across all streets and adjoining properties. Appropriate drainage easements shall also be provided as required by the Planning Commission, Board of Supervisors, and/or the Virginia Department of Transportation.
- 8-A-7 Public water and/or public sewer facilities shall be extended to all lots within a subdivision and shall meet all regulations and specifications of the Clarke County Sanitary Authority and any other applicable federal, state, or local agency.

8-B AGREEMENTS AND BONDS

- 8-B-1 All physical improvements required by the provisions of this Ordinance or as a contingency to approval of a Record Plat for the subdivision as platted shall be installed therein and thereon at the expense of the subdivider.
- 8-B-1-(a) Pending actual installation of all such required improvements, and before approval of the Record Plat by the Planning Commission, the subdivider shall execute and file with the Town Council one or more, or a combination of, the following forms of secured performance guarantees:
1. A certified check or cash escrow;
 2. A personal, corporate, or property bond, with surety satisfactory to the Board;
 3. Written certification that the construction costs have been paid to the person (or persons) constructing such improvements along with a copy of all contracts for the construction of such improvements, the contractor's verification of receipt of such payment, and if required by the Board, the contractor's bond, with surety satisfactory to the Board;
 4. A bond or savings and loan association's letter of credit on certain designated funds, satisfactory to the Board as to the bank or savings and loan association and as to the form of such security.
- 8-B-1-(b) All such forms of secured performance guarantees as provided for herein shall be in an amount determined by the Council, upon a recommendation by the Planning Commission, to be equal to the total estimated costs of all such required improvements, plus 10%, and shall guarantee proper and satisfactory installation of all such improvements within a designated length of time as specified in the security instrument, and shall be payable to and held by the Town of Boyce.
- 8-B-2 After construction of any streets in a subdivision is completed, and until such streets are accepted into the State Highway System, a portion of any secured performance guarantees, as provided for and required by the provisions herein, shall be retained in an amount determined by the Council, upon a recommendation of the Resident Engineer, to be sufficient for, and conditioned upon, satisfactory maintenance of such streets. Maintenance of such streets, curbs, gutters, drainage facilities, utilities and other street improvements shall be in a manner satisfactory to the Council and the Virginia Department of Transportation, including the correction of defects or damages and the removal of snow, water, or debris so as to keep such streets reasonably open for public usage.
- 8-B-3 Upon acceptance of all streets in a subdivision into the State Highway System, and/or upon completion of construction or installation of all other physical improvements required by the provisions of this Ordinance or as a contingency to approval of a Record Plat, the subdivider shall furnish written certification that all construction and installation of such improvements conforms to the requirements and specifications of the Virginia Department of Transportation, the Town Council, and the Planning Commission, as approved or required in conjunction with the approval of the Record Plat.

8-B-4 Upon evidence of satisfactory compliance with all provisions and requirements set forth herein, secured performance guarantees held by the Town of Boyce shall be released in full.

8-B-5 In the absence of secured performance guarantees as required in Section 8-B, above, no Record Plat shall be approved or recorded.

8-C CONSTRUCTION RESPONSIBILITIES

The subdivider and/or contractor shall have available on the project, at all times, a clearly readable copy of all approved plans and specifications and shall cooperate in every way possible with the Zoning Administrator and any inspector or representative of the Town and of any other federal, state, and local agency.

9 EFFECTUAL CLAUSES

9-A VIOLATIONS AND PENALTIES

- 9-A-1 All departments, officials, and public employees of the Town of Boyce vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue no such permit or license for uses, structures, or purposes that would be in conflict with the provisions of this Ordinance. Any such permit or license, if issued in conflict with the provisions of this Ordinance, shall be null and void.
- 9-A-2 It shall constitute a violation of this Ordinance for any person, firm, corporation, owner, or agent to disobey, neglect, or refuse to comply with, or resist the enforcement of, any of the provisions of this Ordinance.
- 9-A-3 Any person who knowingly and intentionally makes any false statement relating to a material fact for the purpose of complying with the requirements of this Ordinance shall be guilty of a misdemeanor. Upon conviction, he/she shall be punished by a fine of not more than \$1,000 and/or 30 days in jail.
- 9-A-4 Any person subdividing, transferring, or selling lots or parcels in violation of this Ordinance shall be subject to a fine of not more than One Thousand Dollars (\$1,000) for each lot or parcel of land so subdivided, transferred, or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. Purchasers who purchase lots that are in violation of this Ordinance shall not be entitled to building permits or other permits authorizing construction upon or improvements to such lots, and the conveyance of the lot or lots to the purchaser shall be voidable at the option of the purchaser. Any person who otherwise violates the provisions of this Ordinance shall be subject to a fine or not more than \$1,000.
- 9-A-5 The Planning Commission, in addition to other remedies, may institute any appropriate action or proceedings to prevent a violation or attempted violation of this Ordinance; to restrain, correct, or abate such violation; or to prevent any act, which would constitute such a violation.

9-B APPEALS

Any subdivider aggrieved by an interpretation, administration, or enforcement of this Ordinance may appeal to the Circuit Court of Clarke County provided by law.

9-C VALIDITY

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not

affect the validity of the remaining portions of the Ordinance.

9-D AMENDMENTS

This Ordinance may be amended in whole or in part by the Town Council, provided that any such amendment shall either originate with or be submitted before amendment to the Planning Commission for its recommendation, such recommendation to be made within 63 days of receipt. No such amendment may be adopted unless it is in conformity with the provisions of Title 15.2, Chapter 22, Article 6 of the Code of Virginia (1950), as amended.

9-E VACATION OF PLAT

Any plat of record may be vacated in accordance with the provisions of the Virginia Land Subdivision Act, Title 15.2, Chapter 22, Article 6, Sections 2271 and 2272.

9-F FEES

To compensate the County for costs incurred for administration, examining plats, making investigations, advertising, travel, and other work incidental to the review of plats, a fee shall be payable to "Treasurer, Clarke County" in such amount as shall from time to time be set by schedule adopted by resolution of the Town Council.

9-G EFFECTIVE DATE

This Subdivision Ordinance shall be effective at and after 9:01 a.m., the 5th day of May, 2000.