

TITLE XV: LAND USAGE

Chapter

150.SUBDIVISIONS **No revisions on this section**

151.FLOOD CONTROL **No revisions on this section**

152.ZONING

CHAPTER 150: SUBDIVISIONS

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GENERAL PROVISIONS

§ 150.001 INCORPORATION BY REFERENCE.

The Town of Boykins hereby incorporates by reference all of the subdivision rules and regulations and ordinances of Southampton County, which are in full force and effect as of the adoption of this code.

(Prior Code, § 14-1)

§ 150.002 GENERALLY.

(A) A chapter to regulate the subdivision of property into lots, streets, alleys, and other public areas, to provide for the making and recording of plats of subdivisions and the certification of same and provide for approval of plats.

(B) Whereas, Article 7 of the Virginia Planning Act found in the VA Code §§ 15.2-2218 *et seq.*, as amended, the governing body of Boykins, Virginia, is authorized to adopt regulations to provide:

(1) For size, scale and other plat details;

(2) For the orderly development of the general area;

(3) For the coordination of streets within the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage;

(4) For adequate provisions for drainage and flood control and other public purposes, and for light and air;

(5) For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewers and other utilities or other facilities installed;

(6) For the acceptance of dedication for public use of any right-of-way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewerage system or other improvements, financed or to be financed in whole or in part by private funds only if the owner or developer:

(a) Certifies to the governing body that the construction costs have been paid to the persons constructing these facilities; or

(b) Furnishes to the governing body a certified check in the amount of the estimated costs of construction or a bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of the facilities, or a contract for the construction of the facilities and the contractor's bond, with like surety, in like amount and so conditioned.

(7) For monuments of specific types to be installed establishing street and property lines;

(8) That unless a plat be filed for recordation within a reasonable time after final approval thereof the approval shall be withdrawn and the plat marked void and returned to the approving official; and

(9) For the administration and enforcement of the chapter, not inconsistent with provisions contained in this section.

Subdivisions

(C) Therefore be it ordained by the governing body of Boykins, Virginia, that the following regulations are hereby adopted for the subdivision of land within the jurisdiction of Boykins, Virginia.

State took away mileage outside corporate limits in 2002 during change of Charter.

(D) From and after the effective date of this chapter, every owner or proprietor of any tract of land to which these regulations apply who subdivides the tract as provided in these regulations shall cause a plat of the subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the Clerk of the Court wherein deeds conveying land are required by law to be recorded.

(Prior Code, Ch. 14)

§ 150.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGENT. The representative of the governing body who has been appointed to serve as the agent of the Council in approving the subdivision plats.

ALLEY. A permanent service way providing a secondary means of access to abutting properties.

BUILDING LINE. The distance which a building is from the front lot line or front boundary line.

COMMISSION. The Planning Commission of Boykins, Virginia.

CUL-DE-SAC. A street with only one outlet and having an appropriate turn-around for a safe and convenient reverse traffic movement.

DEVELOPER. An owner of property being subdivided, whether or not represented by an agent.

EASEMENT. A grant by a property owner of the use of land for a specific purpose or purposes.

ENGINEER. An **ENGINEER** licensed by the Commonwealth of Virginia.

GOVERNING BODY. The Town Council of Boykins, Virginia.

HEALTH OFFICER OR OFFICIAL. The health director or sanitarian of Boykins, Virginia.

HIGHWAY ENGINEER. The resident engineer employed by the Virginia Department of Highways.

JURISDICTION. The area or territory subject to the legislative control of the governing body.

LOT. A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory building.

LOT, CORNER. A lot abutting on 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.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

LOT, INTERIOR. A lot other than a corner lot.

LOT OF RECORD. A lot which has been recorded in the office of the Clerk of the appropriate court.

LOT, WIDTH OF. The mean horizontal distance between the side lot lines.

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.

PROPERTY. Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

STREET. The principal means of access to abutting properties.

STREET or **ALLEY, PUBLIC USE OF.** The unrestricted use of a specific area or right-of-way for ingress and egress to two or more abutting properties.

STREET, MAJOR. A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding 500 vehicles per day.

STREET, OTHER. 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.

STREET, SERVICE DRIVE. A public right-of-way generally parallel and contiguous to a major highway, primarily designed 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.

STREET WIDTH. The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutter, sidewalks and planting strips.

SUBDIVIDE. To divide any tract, parcel or lot of land into two or more parts, except, however:

(1) The term **TO SUBDIVIDE** shall not include a bona fide division or partition of agricultural land for agricultural purposes or for the building site for members of the family owning any agricultural lands.

(2) The agent may, however, permit the separation of one parcel from a tract of land without complying with all requirements of this chapter if it is:

- (a) Not in conflict with the general meaning and purpose of the chapter;
- (b) No new streets are required to serve the parcel;
- (c) At least one acre in area; and
- (d) Not less than 150-foot frontage.

(3) The term **SUBDIVIDE** and any derivative thereof shall have reference to the term subdivider as defined below.

SUBDIVIDER. An individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

(Prior Code, Ch. 14, Art. 8)

§ 150.004 AMENDMENTS.

(A) This chapter may be amended in whole or in part by the governing body provided that any amendment shall either originate with or be submitted to the Commission for recommendation; and further provided that no amendment shall be adopted without a public hearing having been held by the governing body.

(B) Notice of the time and place of the hearing shall have been given at least once a week for two weeks, and the last notice at least five days prior to the hearing.

(Prior Code, § 14-33)

§ 150.005 EFFECTIVE DATE.

(A) This chapter was duly considered, following a required public hearing held on 6-12-1984, and was adopted by the governing body of Boykins, Virginia, at its regular meeting held on 6-12-1984.

(B) This chapter was effective on or after 12:01 a.m. on 7-1-1984.

(Prior Code, Ch. 14, Art. 8)

PURPOSE AND TITLE

§ 150.020 PURPOSE.

(A) The purpose of this chapter is to establish certain subdivision standards and procedures for Boykins, Virginia, and its environs as come under the jurisdiction of the governing body as provided for by the VA Code, as amended.

(B) These 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, the purposes of these standards and procedures are to provide a guide for the change that occurs when lands and acreage become urban in character as a result of development for residential, business, or industrial purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate, and efficient manner. Subdivided land sooner or later becomes a public responsibility in that roads and streets must be maintained and numerous public services customary to urban areas must be provided. This chapter assists the community in meeting these responsibilities.

(Prior Code, § 14-1)

§ 150.021 TITLE.

This chapter is known and may be cited as the Subdivision Code of Boykins, Virginia.

(Prior Code, § 14-2)

ADMINISTRATION

§ 150.035 ADMINISTRATOR.

(A) The agent appointed by the governing body is hereby delegated to administer this chapter.

(B) In so doing, the agent shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body.

(C) The agent shall also consult with the Commission on matters contained herein.

(D) In the event a plan for subdivision is disapproved by the agent, the sub-divider may appeal to the governing body which may then override the recommendation of the agent and approve the plat.

(Prior Code, § 14-3)

§ 150.036 DUTIES.

The agent shall perform its duties as regards subdivisions and subdividing in accordance with this chapter [and applicable state law](#).

(Prior Code, 14-4)

§ 150.037 TO CONSULT.

(A) In the performance of its duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat.

(B) This authority by the agent shall have particular reference to the resident highway engineer and the health officer.

(Prior Code, § 14-5)

§ 150.038 ADDITIONAL AUTHORITY.

In addition to the regulations herein contained for the planning of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter.

(Prior Code, § 14-6)

PROCEDURE FOR MAKING AND RECORDING PLATS

§ 150.050 PLATTING REQUIRED.

(A) Any owner or developer of any tract of land situated within the Town of Boykins who subdivides the same shall cause a plat of the subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the Clerk of the appropriate court.

(B) No plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the agent in accordance with the regulations set forth in this chapter.

(C) No lot shall be sold in any subdivision before the plat shall have been recorded.

(Prior Code, § 14-7) Penalty, see § 150.999

§ 150.051 DRAW AND CERTIFY.

(A) Every plat shall be prepared by a surveyor or engineer, duly licensed by the State of Virginia, who shall endorse upon each plat a certificate signed by him or her setting forth the source of the title of the land subdivided, and the place of record of the last instrument in the chain of title.

(B) When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat, within an inset block, or by means of a dotted boundary line upon the plat.

(Prior Code, § 14-8)

§ 150.052 OWNER'S STATEMENT.

Every plat, or the deed of dedication to which plat is attached, shall contain in addition to the surveyor's or engineer's certificate a statement to the effect that "the above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any," which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledgments of deeds and when thus executed and approved as herein specified shall be filed and recorded in the office of the Clerk of the appropriate court, and indexed under the name of the subdivision.

(Prior Code, § 14-9)

§ 150.053 NO ONE EXEMPT.

No person shall subdivide any tract of land that is located within the Town of Boykins except in conformity with the provisions of this chapter [and applicable state law](#).

(Prior Code, § 14-10) Penalty, see § 150.999

§ 150.054 PRIVATE CONTRACTS.

(A) This chapter bears no relation to any private easement, convenient, agreement or restriction, nor is the responsibility of enforcing the private easement, convenient, agreement or restriction implied herein to any public official.

(B) When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

(Prior Code, § 14-11)

§ 150.055 NECESSARY CHANGES.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for the changes has been granted in writing by the agent.

(Prior Code, § 14-12) Penalty, see § 150.999

§ 150.056 FEES.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the subdivider shall deposit with the agent checks payable to the treasurer in the amount of \$25 per plat and \$1 for each lot if the subdivision contains five or more lots; if the subdivision contains less than five lots, the charge shall be \$10 per plat and \$1 for each lot.

(Prior Code, § 14-13)

GENERAL REGULATIONS

§ 150.070 MUTUAL RESPONSIBILITY.

There is a mutual responsibility between the subdivider and the Town of Boykins to divide the land so as to improve the general use pattern of the land being subdivided.

(Prior Code, § 14-14)

§ 150.071 LAND MUST BE SUITABLE.

The agent shall not approve the subdivision of land if from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development of the kind proposed.

(Prior Code, § 14-15)

§ 150.072 FLOODING.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for other uses as may increase danger to health, life or property, or aggravate erosion or flood hazard. The land within the subdivision shall be set aside on the plat for uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

(Prior Code, § 14-16) Penalty, see § 150.999

§ 150.073 IMPROVEMENTS.

All required improvements shall be installed by the subdivider at his or her cost. In cases where specifications have been established either by the Virginia Department of Highways for streets, curbs, and the like, or by local ordinances and codes, the specifications shall be followed. The subdivider's bond shall not be released until construction has been inspected and approved by the appropriate engineer. All improvements shall be in accordance with the following requirements.
(Prior Code, § 14-17) Penalty, see § 150.999

§ 150.074 WATER FACILITIES.

(A) Where public water is available the service shall be extended to all lots within a subdivision, including fire hydrants by the subdivider in accordance with the design standards and specifications for water, construction, and improvements in Boykins, and meeting the approval of the agent.

(B) Every subdivision containing 25 or more lots to which public water cannot or will not be provided shall be supplied by the subdivider with a complete central water supply and distribution system to serve each and every lot containing less than 20,000 square feet per lot.
(Prior Code, § 14-17.3) Penalty, see § 150.999

§ 150.075 SEWERAGE FACILITIES.

Where public sewerage facilities are available the service shall be extended to all lots within a subdivision and septic tanks will not be permitted. Every subdivision shall be provided by the subdivider with a satisfactory and sanitary means of sewage collection and disposal in accordance with the design standards and specifications for sewerage construction and improvements in Boykins and meeting the approval of the agent, provided the average prevailing lot size is less than 20,000 square feet. In case of a subdivision in which the side of lots are 20,000 square feet or more in area, an individual sewage disposal system for each lot may be provided by the subdivider, subject to approval by the health official.

(Prior Code, § 14-17.4) Penalty, see § 150.999

§ 150.076 PRIVATE WATER AND/OR SEWER.

Nothing in this regulation shall prevent the installation of privately owned water and/or sewerage facilities in areas where public water and/or sewerage facilities are not available, provided, however, that the installations must meet all the requirements of the State Water Control Board, the State Health Department, and any other state or local regulation having authority over the installation.
(Prior Code, § 14-17.5)

§ 150.077 EXCEPTIONS.

(A) Greater lot areas may be required where individual septic tanks or individual wells are used if the health official determines that there are factors of drainage, soil condition or other conditions to cause potential health problems.

(B) The agent shall require that data from percolation tests be submitted as a basis for passing upon subdivisions dependent upon septic tanks as a means of sewage disposal.
(Prior Code, § 14-17.7)

§ 150.078 STORM DRAINAGE FACILITIES.

(A) The subdivider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices.

(B) The subdivider shall also provide plans for all improvements together with a properly qualified certified engineer's or surveyor's statement that the improvements, when properly installed will be adequate for proper development.

(C) The highway engineer shall then approve or disapprove the plans.

(D) The subdivider shall also provide any other information required by the highway engineer.
(Prior Code, § 14-17.8) Penalty, see § 150.999

§ 150.079 FIRE PROTECTION.

(A) The installation of adequate fire hydrants in a subdivision at locations approved by the agent may be required, provided necessary public water is available.

(B) The agent shall consult with the proper authority before approving the location.
(Prior Code, § 14-17.9)

§ 150.080 EASEMENTS.

The agent may require that easements for drainage through adjoining property be provided by the subdivider. Easements of not less than ten feet in width shall be provided for water, sewer, power lines and other utilities in the subdivision when required by the agent.
(Prior Code, § 14-17.10) Penalty, see § 150.999

§ 150.081 BOND.

Before any subdivision plat will be finally approved by the agent the subdivider shall, in lieu of construction, furnish bond in an amount calculated by the agent to secure the required improvements in a workmanlike manner, and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond shall be payable to and held by the governing body. (Prior Code, § 14-17.11)

§ 150.082 PLANS AND SPECIFICATIONS.

(A) Two blue or black line prints of the plans and specifications for all required physical improvements to be installed, shall be prepared by an engineer and shall be submitted to the agent for approval or disapproval within 45 days.

(B) If approved one copy bearing certification of the approval shall be returned to the subdivider.

(C) If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing.

(D) In the event no action is taken in 45 days the subdivision shall be deemed approved. (Prior Code, § 14-17.12)

STREETS

§ 150.095 STREETS.

All streets in the proposed subdivision shall be designed and constructed in accordance with the following minimum requirements by the subdivider at no cost to the locality. (Prior Code, § 14-7.1) Penalty, see § 150.999

§ 150.096 ALIGNMENT AND LAYOUT.

(A) The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.

(B) Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of the property.

(C) Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles.

(D) In all hillside areas streets running with contours shall be required to intersect at angles of not less than 60 degrees, unless approved by the agent upon recommendation of the highway engineer. (Prior Code, § 14-7.1.a) Penalty, see § 150.999

§ 150.097 SERVICE DRIVES.

(A) Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to the right-of-way at a distance suitable for an appropriate use of the land between the highway and the proposed subdivision.

(B) The distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades. (Prior Code, § 14-7.1.b)

§ 150.098 APPROACH ANGLE.

Major streets shall approach major or minor streets at an angle of not less than 80 degrees, unless the agent, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns. (Prior Code, § 14-7.1.c) Penalty, see § 150.999

§ 150.099 MINIMUM WIDTHS.

The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on the plan shall be:

Major streets	Not less than 80 feet
Minor streets	Not less than 50 feet
Local service drives or other minor streets which cannot be extended in the future	Not less than 50 feet
Alleys, if permitted	Not less than 20 feet nor more than 28 feet

(Prior Code, § 14-7.1.d)

§ 150.100 CONSTRUCTION REQUIREMENTS.

(A) In cases where Virginia Department of Highways specifications are lacking or are less restrictive than the requirements of this chapter, this chapter shall prevail.

(B) The roadway shall be graded to 30 feet exclusive of side ditches.

(C) Base for pavement shall be at least 24 feet in width and six inches in depth and be of stone, gravel or other satisfactory material approved by the Virginia Department of Highways.

(D) Pavement width shall be a minimum of 22 feet except that towns over 3,500 in population shall have a minimum pavement width of 30 feet constructed of material passing Virginia Department of Highways specifications. The pavement will consist of a bituminous oil primer treatment and double sealed treatment with rates of application to be in accordance with the Virginia Department of Highways specifications.

(E) The grades of streets submitted on subdivision plats shall be approved by the agent upon recommendation of the highway engineer prior to final action by the agent. Wherever feasible, street grades shall not exceed 10%.

(Prior Code, § 14-7.1.e) Penalty, see § 150.999

§ 150.101 CUL-DE-SACS.

Generally, minor terminal streets (cul-de-sacs), designed to have one end permanently closed, shall be no longer than 400 feet to the beginning of the turn-around. Each cul-de-sac must be terminated by a turn-around of not less than 100 feet in diameter

(Prior Code, § 14-7.1.f) Penalty, see § 150.999

§ 150.102 ALLEYS.

Alleys should be avoided wherever possible. Dead-end alleys, if unavoidable, shall be provided with adequate turn-around facilities as determined by the agent.

(Prior Code, § 14-7.1.g) Penalty, see § 150.999

§ 150.103 PRIVATE STREETS AND RESERVE STRIPS.

(A) There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street.

(B) There shall be no reserve strips controlling access to streets.

(Prior Code, § 14-7.1.h) Penalty, see § 150.999

§ 150.104 NAMES.

(A) Proposed streets which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets.

(B) In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court.

(C) Street names shall be indicated on the preliminary and final plats, and shall be approved by the agent.

(D) Names of existing streets shall not be changed except by approval of the governing body.
(Prior Code, § 14-7.1.i)

§ 150.105 IDENTIFICATION SIGNS.

Street identification signs of a design approved by the agent shall be installed at all intersections.
(Prior Code, § 14-7.1.j)

MONUMENTS

§ 150.120 MONUMENTS.

(A) As required by this chapter, all monuments shall be installed by the subdivider and shall meet the minimum specifications.

(B) Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use.

(C) The monuments shall be inspected and approved by the agent before any improvements are accepted by the governing body.
(Prior Code, § 14-17.2)

§ 150.121 LOCATION; CONCRETE.

(A) Concrete monuments four inches in diameter or square, three feet long, with a flat top, shall be set at all street corners, at all points where the street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points and points of curve in each street.

(B) The top of the monument shall have an appropriate mark to identify properly the location and shall be set flush with the finished grade.

(Prior Code, § 14-17.2.a) Penalty, see § 150.999
§ 150.122 LOCATION; IRON PIPE.

(A) All other lot corners shall be marked with iron pipe not less than three-quarters of an inch in diameter and 24 inches long and driven so as to be flush with the finished grade.

(B) When rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be cemented a steel rod one-half inch in diameter, the top of which shall be flush with the finished grade line.

(Prior Code, § 14-17.2.b) Penalty, see § 150.999

LOTS

§ 150.135 LOT SIZE.

(A) The minimum lot size in any area shall be in accordance with the Zoning Code, except that where public water and/or public sewer systems are not available the minimum lot sizes may be increased by the agent in accordance with the recommendations of the health officer which shall be submitted to the agent in writing, either by notations on the plat or by letter.

(B) The health officer may be guided by appropriate tests in determining the area required for the sanitary and safe disposal of septic tank effluent.

(Prior Code, § 14-17.6) Penalty, see § 150.999

§ 150.136 GENERALLY.

In addition to the area and width requirements already specified, lots shall be arranged in order that the following considerations are satisfied.

(Prior Code, § 14-18) Penalty, see § 150.999

§ 150.137 SHAPE.

(A) The lot arrangement, design, and shape shall be that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography and conform to requirements of this chapter.

(B) Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

(Prior Code, § 14-18.1) Penalty, see § 150.999

§ 150.138 LOCATION.

(A) Each lot shall abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street or on a street which has become public by right of use.

(B) If the existing streets are not 50 feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of the roads or streets to a width of 50 feet.

(Prior Code, § 14-18.2) Penalty, see § 150.999

§ 150.139 CORNER LOTS.

Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the agent.

(Prior Code, § 14-18.3) Penalty, see § 150.999

§ 150.140 SIDE LINES.

Side lines of lots shall be approximately at right angles, or radial to the street line.

(Prior Code, § 14-18.4) Penalty, see § 150.999

§ 150.141 REMNANTS.

All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

(Prior Code, § 14-18.5) Penalty, see § 150.999

§ 150.142 SEPARATE OWNERSHIP.

(A) Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat.

(B) The deed is to be deposited with the Clerk of the Court and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

(Prior Code, § 14-18.6)

§ 150.143 BUSINESS OR INDUSTRIAL.

Lots intended for business or industrial use shall be designed specifically for the purposes with adequate space set aside for off-street parking and delivery facilities.

(Prior Code, § 14-18.7) Penalty, see § 150.999

BLOCKS

§ 150.155 GENERALLY.

Where created by the subdivision of land, all new blocks shall be of modern design and shall comply with the following general requirements.

(Prior Code, § 14-19) Penalty, see § 150.999

§ 150.156 LENGTH.

Generally, the maximum length of blocks shall be 1,200 feet, and the maximum length of blocks upon which lots have frontage shall be 500 feet.

(Prior Code, § 14-19.1) Penalty, see § 150.999

§ 150.157 WIDTH.

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

(Prior Code, § 14-19.2) Penalty, see § 150.999

§ 150.158 ORIENTATION.

When a proposed subdivision will adjoin a major road, the agent may require that the greater dimension of the block shall front or back upon the major thoroughfare to avoid unnecessary ingress or egress.

(Prior Code, § 14-19.3) Penalty, see § 150.999

APPROVAL OF PLATS

§ 150.170 APPROVAL REQUIRED BEFORE SALE.

(A) Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his or her agent shall apply in writing to the agent for the approval of the subdivision plat and submit three copies of the preliminary plat including the lot, street and utilities layout.

(B) No lot shall be sold until a final plat for the subdivision shall have been approved and recorded in the following manner.

(Prior Code, § 14-20) Penalty, see § 150.999

§ 150.171 PRELIMINARY SKETCH.

(A) The subdivider may, if he or she so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to his or her preparing engineered preliminary and final plats.

(B) The purpose of the preliminary sketch is to permit the agent to advise the subdivider whether his or her plans in general are in accordance with the requirements of this chapter.

(C) The Commission, upon submission of any preliminary sketch, shall study it and advise the subdivider where it appears that changes would be necessary.

(D) The agent may mark the preliminary sketch indicating necessary changes and any marked sketch shall be returned to the Commission with the preliminary plat.

(E) The preliminary sketch shall be as follows.

(1) It shall be drawn on white paper, or on a print of a topographic map of the property.

(2) It shall be drawn to a scale of 100 feet to the inch.

(3) It shall show the name, location, and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided.

(4) It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

(F) Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat.

(G) This sketch is merely for informational purposes and is not binding on the subdivider or the governing body.

(Prior Code, § 14-21)

§ 150.172 PRELIMINARY PLAT.

(A) The subdivider shall present to the Commission three prints of a preliminary layout at a scale of 100 feet to the inch as a preliminary plat.

(B) The preliminary plat shall include the following information:

(1) Name of subdivision;

(2) Owner;

- (3) Subdivider;
- (4) Surveyor or engineer;
- (5) Date of drawing;
- (6) Number of sheets;
- (7) North point;
- (8) Scale;
- (9) If true north is used, method of determination must be shown;

(10) Location of proposed subdivision by an inset map at a scale of not less than two inches equal to one mile showing adjoining roads, their names and numbers, towns, subdivisions, and other landmarks;

(11) The boundary survey or existing survey of record provided the survey shows a closure with an accuracy of not less than one in 2,500; total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining the boundaries;

(12) All existing, platted, and proposed streets, their names, numbers, and widths; existing utility or other easements, public areas and parking spaces; culverts, drains, and water courses, their names and other pertinent data;

(13) The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well defined open stream which is considered natural drainage;

(14) A cross section showing the proposed street construction, depth and type of base, type of surface and the like;

(15) A profile or contour map showing the proposed grades for the streets and drainage facilities including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith;

(16) A location map tying the subdivision into our present road system, either by aerial photographs or topographic maps of the U.S. Department of Interior;

(17) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply; and

(18) All parcels of land to be dedicated for public use and the conditions of the dedication.
(Prior Code, § 14-22)

§ 150.173 PROCEDURE.

(A) The agent or his or her appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not his or her preliminary plat generally conforms to the requirements of the Subdivision Code and of the Zoning Code.

(B) The subdivider shall then be advised in writing within 45 days, which may be by formal letter or by legible markings on his or her copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat.

(C) In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the agent, or preferably may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

(Prior Code, § 14-23)

§ 150.174 NO GUARANTEE.

Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

(Prior Code, § 14-24)

§ 150.175 SIX-MONTHS' LIMIT.

(A) The subdivider shall have not more than six months after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat in accordance with this chapter.

(B) Failure so to do shall make preliminary approval null and void.

(C) The agent may, on written request by the subdivider, grant an extension of this time limit.
(Prior Code, § 14-25)

§ 150.176 FINAL PLAT.

(A) The subdivision plats submitted for final approval by the governing body and subsequent recording shall be clearly, and legibly drawn in ink upon tracing cloth at a scale of 100 feet to the inch on sheets having a size of 24 inches by 20 inches.

(B) In addition to the requirements of the preliminary plat the final plat shall include the following:

(1) A blank oblong space three inches by five inches shall be reserved for the use of the approving authority;

(2) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title;

(3) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds;

(4) When the subdivision consists of land acquired from more than one source of title the outlines of the various tracts shall be indicated by dash-lines, and identification of the respective tracts shall be placed on the plat;

(5) The accurate location and dimensions by bearings and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets, boundaries of all proposed or existing easements, parks, school sites or other public areas, the number and area of all building sites, all existing public and private streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type, water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining boundaries;

(6) Distances and bearings must balance and close with an accuracy of not less than one in 10,000; and

(7) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following:

(a) Delta;

(b) Radius;

(c) Arc;

(d) Tangent;

(e) Chord; and

(f) Chord bearings.

(Prior Code, § 14-26)

§ 150.177 CONDITIONS.

(A) The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter, and has made satisfactory arrangements for performance bond, cash or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the agent.

(B) Approval of final plat shall be written on the face of the plat by the agent.

(C) The subdivider shall record plat within 60 days after final approval; otherwise agent shall mark plat "void" and return same to subdivider.

(Prior Code, § 14-27)

ADVERTISING STANDARDS

§ 150.190 GENERALLY.

A subdivider when advertising a subdivided tract of land for sale shall be specific as to the following items:

(A) Whether officially approved water and sewage facilities are available or not; and

(B) The amount of officially approved water available to each lot purchaser in terms of gallons per day.

(Prior Code, § 14-28) Penalty, see § 150.999

EFFECTUAL CLAUSES

§ 150.205 EXCEPTIONS.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of the provisions, the agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the agent with the reasoning, on which the departure was justified, set forth. No variance may be granted by this chapter which is opposed in writing by the county or highway engineer or health official.

(Prior Code, § 14-29)

§ 150.999 PENALTY.

Any person violating the foregoing provisions of this chapter shall be subject to the provisions of § 10.99.

CHAPTER 151: FLOOD CONTROL

Section

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- 151.02 Applicability
- 151.03 Compliance and liability
- 151.04 Abrogation and greater restrictions
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Non-conforming uses, see §§ 152.145 et seq.

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GENERAL PROVISIONS

§ 151.01 PURPOSE.

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief and the impairment of the tax base by:

(A) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;

(B) Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding;

(C) Requiring all those uses, activities and developments that do occur in flood-prone districts to be protected and/or flood proofed against flooding and flood damage; and

(D) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(Ord. passed 9-10-2002)

§ 151.02 APPLICABILITY.

These provisions shall apply to all lands within the jurisdiction of Town of Boykins and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(Ord. passed 9-10-2002)

§ 151.03 COMPLIANCE AND LIABILITY.

(A) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.

(B) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the Floodplain District, or that land uses permitted within the district will be free from flooding or flood damages.

(C) This chapter shall not create liability on the part of the Town of Boykins or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. passed 9-10-2002) Penalty, see § 10.99

§ 151.04 ABROGATION AND GREATER RESTRICTIONS.

This chapter supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

(Ord. passed 9-10-2002)

§ 151.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASE FLOOD/100-YEAR FLOOD. A flood that, on the average, is likely to occur once every 100 years (such as that has a 1% chance of occurring each year, although the flood may occur in any year).

BASE FLOOD ELEVATION (BFE). The Federal Emergency Management Agency designated 100-year water surface elevation of one or more feet.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BOARD OF ZONING APPEALS. The Board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this chapter.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FREEBOARD. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement).

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after 12-31-1974, whichever is later, and includes any subsequent improvements to the structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to the structures.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

- (1) Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement.
- (2) This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed.
- (3) The term does not, however, include either:
 - (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
(Ord. passed 9-10-2002)

ESTABLISHMENT OF ZONING DISTRICTS

§ 151.20 DESCRIPTION OF DISTRICTS.

(A) Basis of district.

(1) The various floodplain areas shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these areas shall be the Flood Insurance Study for Southampton County (which includes Boykins) dated 9-4-2002.

(2) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. The areas are shown as Zone A on the Flood Insurance Rate Map/Flood Hazard Boundary Map. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, and the like, then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, and the like, shall be submitted in sufficient detail to allow a thorough review by the Town of Boykins.

(3) The community shall require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within the proposals base flood elevation data. (44 C.F.R. 60.3(b)§ (3).)

(B) Overlay concept.

(1) The Floodplain District described above shall be overlays to the existing underlying area as shown on the official Zoning Code map, and as such, the provisions for the Floodplain District shall serve as a supplement to the underlying district provisions.

(2) Any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the Floodplain Districts shall apply.

(3) In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.
(Ord. passed 9-10-2002)

§ 151.21 OFFICIAL ZONING MAP.

The boundaries of the floodplain areas are established as shown on the Flood Insurance Rate Map, effective 9-4-2002, as amended, which is declared to be a part of this chapter and which shall be kept on file at the Town of Boykins offices.
(Ord. passed 9-10-2002)

§ 151.22 DISTRICT BOUNDARY CHANGES.

The delineation of any of the Floodplain District may be revised by the Town Council where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for change. However, prior to any change, approval must be obtained from the Federal Insurance Administration.
(Ord. passed 9-10-2002) Penalty, see 10.99

§ 151.23 INTERPRETATION OF DISTRICT BOUNDARIES.

Initial interpretations of the boundaries of the Floodplain District shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board and to submit his or her own technical evidence if he or she so desires.
(Ord. passed 9-10-2002)

DISTRICT PROVISIONS

§ 151.35 PERMIT REQUIREMENT.

All uses, activities, and development occurring within any Floodplain District shall be undertaken only upon the issuance of a zoning permit. The development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Boykins Subdivision Code. Prior to the issuance of any permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

(Ord. passed 9-10-2002) Penalty, see 10.99

§ 151.36 ALTERATION OR RELOCATION OF WATERCOURSE.

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream and the like, within this jurisdiction, a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Further notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation) and the Federal Insurance Administration.

(Ord. passed 9-10-2002) Penalty, see 10.99

§ 151.37 DRAINAGE FACILITIES.

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(Ord. passed 9-10-2002) Penalty, see 10.99

§ 151.38 SITE PLANS AND PERMIT APPLICATIONS.

All applications for development in the Floodplain District and all building permits issued for the floodplain shall incorporate the following information:

- (A) For structures to be elevated, the elevation of the lowest floor (including basement);

(B) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed;

(C) The elevation of the 100-year flood; and

(D) Topographic information showing existing and proposed ground elevations.
(Ord. passed 9-10-2002)

§ 151.39 RECREATIONAL VEHICLES.

(A) Recreational vehicles placed on sites shall either:

(1) Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use; or

(2) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in Uniform Statewide Building Code.

(B) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(Ord. passed 9-10-2002) Penalty, see 10.99

§ 151.40 APPROXIMATED FLOODPLAIN DISTRICT.

(A) In the Approximated Floodplain District, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances. All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, include within the proposals base flood elevation data. The applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one foot at any one point. The engineering principle of equal reduction of conveyance shall be used to make the determination of increased flood heights.

(B) Within the floodway area delineated by the applicant, no development shall be permitted that will cause any increase in the 100-year flood elevation, one or more feet to obtain a greater level of flood protection.

(Ord. passed 9-10-2002) Penalty, see 10.99

VARIANCES

§ 151.55 FACTORS TO BE CONSIDERED.

(A) In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Code and consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the 100-year flood elevation;

(2) The danger that materials may be swept onto other lands or downstream to the injury of others;

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owners;

(5) The importance of the services provided by the proposed facility to the community;

(6) The requirements of the facility for a waterfront location;

(7) The availability of alternative locations not subject to flooding for the proposed use;

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood;

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;

(12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
and

(13) Other factors which are relevant to the purposes of this chapter.

(B) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

(C) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of them will not result in:

- (1) Unacceptable or prohibited increases in flood heights;
- (2) Additional threats to public safety;
- (3) Extraordinary public expense;
- (4) Will not create nuisances;
- (5) Will not cause fraud or victimization of the public; or
- (6) Will not conflict with local laws or ordinances.

(D) Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

(E) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:

- (1) Increases the risks to life and property; and
- (2) Will result in increased premium rates for flood insurance.

(F) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.
(Ord. passed 9-10-2002)

CHAPTER 152: ZONING

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GENERAL PROVISIONS

§ 152.001 INCORPORATION BY REFERENCE.

The Town of Boykins hereby incorporates by reference all of the zoning rules and regulations and ordinances of Southampton County as of the adoption of this code.
(Prior Code, § 18-1)

§ 152.002 GENERALLY.

(A) Whereas, by act of the General Assembly of Virginia as provided in VA Code §§ 15.2-2200 *et seq.*, as amended, the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of the number, shape and area as it may deem best suited to carry out the purposes of this chapter, and in each district it may regulate, restrict, permit, prohibit and determine the following:

(1) The use of land, buildings, structures and other premises for agricultural, commercial, industrial, residential and other specific uses;

(2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;

(3) The areas and dimensions of land, water and air space to be occupied by buildings, structures and uses of courts, yards and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; and

(4) The excavation or mining of soil or other natural resources.

(B) Therefore, be it ordained, by the governing body of Boykins, Virginia, for the purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of VA Code § 15.1-489, that the following be adopted as Chapter 152, Zoning, of the Town of Boykins, Virginia, together with the accompanying zoning map of the Town of Boykins, Virginia, dated 1966.

(C) This chapter has been designed:

(1) To provide for adequate light, air, convenience of access and safety from fire, flood and other dangers;

(2) To reduce or prevent congestion in the public streets;

(3) To facilitate the provision of convenient, attractive and harmonious community;

(4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;

(5) To protect against destruction of or encroachment upon historic areas;

(6) To protect against one or more of the following:

(a) Overcrowding of land;

(b) Undue density of population in relation to the community facilities existing or available obstruction of light and air;

(c) Danger and congestion in travel and transportation; or

(d) Loss of life, health, or property from fire, flood, panic, or other dangers.

(7) To encourage economic development activities that provide desirable employment and enlarge the tax base.

(Prior Code, Ch. 18)

§ 152.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY USE OF STRUCTURE. A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

ACREAGE. A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

ADMINISTRATOR. The official charged with the enforcement of the Zoning Code. He or she may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He or she may serve with or without compensation as determined by the governing body.

AGRICULTURE. The tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowl, and including any agricultural industry or business such as fruit packing plants, dairies or similar use.

ALTERATION. Any change in the total floor area, use adaptability or external appearance of an existing structure.

APARTMENT HOUSE. A building used or intended to be used as the residence of three or more families living independently of each other.

AUTOMOBILE GRAVEYARD. Any lot or area of land that is exposed to the weather upon which more than three motor vehicles which do not possess valid Commonwealth of Virginia inspection stickers are placed. All **AUTOMOBILE GRAVEYARDS** where permitted by this chapter, shall be screened on all sides open to view from a public road by a solid masonry wall, a uniformly painted solid board fence, an evergreen hedge or other means approved by the Zoning Administrator.

BASEMENT. A story having part but not more than one-half of its height below grade. A **BASEMENT** shall be counted as a story for the purpose of height regulations, if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises.

BOARDING HOUSE. A building where, for compensation, lodging and meals are provided for at least five and up to 14 persons.

BUILDING. Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

BUILDING, ACCESSORY. A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No accessory structure shall be used for housekeeping purposes.

BUILDING, HEIGHT OF. The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

BUILDING, MAIN. The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

CELLAR. A story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

CLUB (PRIVATE). Those nonprofit associations or organizations of a fraternal or social character not operated or maintained for profit, but shall not include a night club or other institution operated as a business.

COMMISSION. The Planning Commission of Boykins, Virginia.

DAY CARE CENTER. Any facility operated for the purpose of providing care, protection and guidance to a group of ten or more children separated from their parents or guardian during a part of the day.

DAY CARE HOMES (FAMILY). Any private home in which more than five children are received for care, protection and guidance during only a part of the 24-hour day, except children who are related by blood or marriage to the person who maintains the home. Certification of the home shall be conducted by the Southampton County Department of Social Services. A **FAMILY DAY CARE HOME** shall be approved or licensed before it begins to provide day care and the certificate of approval shall be posted in a conspicuous place.

DISTRICT. Districts as referred to in the VA Code §§ 15.2-2201 *et seq.*

DUMP HEAP (TRASH PILE). Any area of 100 square feet or more lying within 1,000 feet of a state highway, a residence, a dairy barn or food handling establishment where trash, garbage or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

DWELLING. Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments and mobile homes.

DWELLING, MULTIPLE-FAMILY. A structure arranged or designed to be occupied by three or more families.

DWELLING, SINGLE-FAMILY. A structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.

DWELLING, TWO-FAMILY. A structure arranged or designed to be occupied by two families, the structure having only two dwelling units.

DWELLING UNIT. One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen.

FAMILY. One or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home or hotel.

FENCE. A wall composed of wood, stone, brick, wire, chain link, rails or composite materials erected for the purpose of providing privacy, screening, boundary delineation, decoration or protective enclosure for people or animals. Barbed wire fencing is not permissible in the Limited Residential District R-1 or General Residential District R-2.

FRONTAGE. The minimum width of a lot measured from one side line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

GARAGE, PRIVATE. Accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units.

GARAGE, PUBLIC. A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

GOVERNING BODY. The Town Council of Boykins, Virginia.

GUEST ROOM. A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

HISTORICAL AREA. As indicated on the zoning map to which the provisions of the chapter apply for protection of a historical heritage.

HOME GARDEN. A garden in a residential district for the production of vegetables, fruits and flowers generally for use and/or consumption by the occupants of the premises.

HOME OCCUPATION. An occupation carried on by the occupant of a dwelling as a secondary use, and no one is employed other than members of the family residing on the premises such as the rental of rooms to tourists, the preparation of food products for sale, and similar activities; professional offices such as medical, dental, legal, engineering and architectural conducted within a dwelling by the occupant.

HOSPITAL.

(1) An institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts.

(2) Certain nursing homes and homes for the aged may be home occupations if they comply with the definition herein.

HOSPITAL, SPECIAL CARE. An institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts.

HOTEL. A building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

JUNK YARD.

(1) The use of any area lying within 100 feet of a public road or the use of more than 200 square feet of land visible to view from a public road in any location for the storage, keeping or abandonment of junk including, but not limited to, scrap metals or other scrap materials.

(2) All **JUNK YARDS**, where permitted by this chapter, shall be screened on all sides open to view from a public road by a solid masonry wall, a uniformly painted solid board fence, an evergreen hedge or other means approved by the Zoning Administrator.

(3) The term **JUNK YARD** shall include the term **AUTOMOBILE GRAVEYARD**.

KENNEL. A place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

LOT. A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures together with yards, open spaces, lot width and lot areas as are required by this chapter, and having frontage upon a street either shown on a plat of record or considered as a unit of property and described by metes and bounds.

LOT, CORNER. A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

LOT, DEPTH OF. The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

LOT, INTERIOR. Any lot other than a corner lot.

LOT OF RECORD. A lot which has been recorded in the Clerk's office of the Circuit Court.

LOT, WIDTH OF. The average horizontal distance between side lot lines.

MANUFACTURE AND/OR MANUFACTURING. The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

MOBILE HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

MOTEL. One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

NON-CONFORMING ACTIVITY. The otherwise legal use of a building or structure or a tract of land that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

NON-CONFORMING LOT. An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

NON-CONFORMING STRUCTURE. An otherwise legal building or structure that does not conform with the lot area, yard, height, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

OFF-STREET PARKING AREA. Space provided for vehicular parking outside the dedicated street right-of-way.

PLANNING COMMISSION. The Planning Commission of Boykins, Virginia.

PUBLIC WATER AND SEWER SYSTEMS. A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.

REQUIRED OPEN SPACE. Any space required in any front, side or rear yard.

RESTAURANT. Any building in which for compensation, food or beverages are dispensed for consumption on the premises, including among other establishments, cafes, tea rooms, confectionery shops or refreshment stands.

RETAIL STORES AND SHOPS. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop.

SETBACK. The minimum distance by which any building or structure must be separated from the front lot line.

SIGN. Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts of combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether the display be made on, attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one square foot in area is excluded from this definition.

(1) **BUSINESS.** A sign which directs attention to the product, commodity or service available on the premises.

(2) **DIRECTIONAL.** A directional sign is one (one end of which may be pointed, or on which an arrow may be painted, indicating the direction to which attention is called) four square feet or less in area, giving the name only of the firm, or business responsible for the erection of same.

(3) **GENERAL ADVERTISING.** A sign which directs attention to a product, commodity, or service not necessarily available on the premises.

(4) **HOME OCCUPATION.** A sign not exceeding four square feet in area directing attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling.

(5) **LOCATION.** A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

SIGN STRUCTURE. Includes the supports, uprights, bracing and framework of any structure, be it single-faced, double-faced, v-type, or otherwise, exhibiting a sign.

SIGN, TEMPORARY. A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions or sale of land. **TEMPORARY SIGNS** shall conform in size and type to directional signs.

STORY. That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

STREET or **ROAD.** A public thoroughfare which affords principal means of access to abutting property.

STREET LINE. The dividing line between a street or road right-of-way and the contiguous property.

STRUCTURE. An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and above), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. The word “structure” shall be construed as though followed by the words “or part or parts thereof” unless the context clearly requires a different meaning. “Structure” shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by standards approved by the Virginia Commonwealth Transportation Board. *(Revised February 11, 2014)* **DEFINITIONS** shall be amended by replacing in its entirety the current definition of “structure” with the following definition in order to be consistent with the Virginia Uniform Statewide Building Code:

TOURIST HOME. A dwelling where only lodging is provided for compensation for up to 14 persons (in contradistinction to hotels and boarding houses) and open to transients.

USE, ACCESSORY. A subordinate use customarily incidental to and located upon the same lot occupied by the main use.

UTILITIES.

(1) *District serving utilities.* Installations including, but not limited to:

(a) Sewer treatment systems;

(b) Water, gas, and petroleum wells and lines;

(c) Television, cable television, and radio transmission towers, cables and lines;

(d) Electricity generating, booster and relay stations, transformer substations, transmission lines and towers;

(e) Railroads; and

(f) Other facilities used in operation and maintenance of the installations which are constructed for the purpose of providing the indicated service in the zoning district in which the utility is constructed or adjoining zoning districts in the county.

(2) *Non-district serving utilities.* Installations including, but not limited to:

(a) Sewer treatment systems;

(b) Water, gas, and petroleum well and lines;

(c) Television, cable television and radio transmission towers, cables, and lines;

(d) Electricity generating, booster and relay stations, transformer substations, transmission lines and towers;

(e) Railroads; and

(f) Other facilities used in operation and maintenance of the installations which are constructed for the purpose of providing the indicated service outside the zoning district in which the utility is constructed or adjoining zoning districts in the county.

VARIANCE. A relaxation of the terms of the Zoning Code where the **VARIANCE** will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the code would result in unnecessary and undue hardship. As used in this code, a **VARIANCE** is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a **VARIANCE** be granted because of the presence of non-conformities in the zoning division or district or adjoining zoning divisions or districts.

WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKER. Any structure or land used for the sale of agricultural or horticultural product, livestock, or merchandise produced by the owner or his or her family on their farm.

YARD. An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

(1) **FRONT.** An open space on the same lot as a building between the front line of the building (exclusive of steps) and the front lot or street line, and extending across the full width of the lot.

(2) **REAR.** An open, unoccupied space on the same lot as a building between the rear line of the building (exclusive of steps) and the rear line of the lot, and extending the full width of the lot.

(3) **SIDE.** An open, unoccupied space on the same lot as a building between the side line of the building (exclusive of steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

(Prior Code, § 18-1)

§ 152.004 USES NOT PROVIDED FOR.

If, in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the Administrator for the use, the Administrator shall refer the application to the Commission which shall make its recommendations to the governing body within 60 days.

(Prior Code, § 18-46)

§ 152.005 WIDENING OF HIGHWAYS AND STREETS.

Whenever there shall be plans in existence, approved by either the State Department of Highways and Transportation or by the governing body for the widening of any street or highway, the Commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the right-of-way for the proposed street or highway widening.

(Prior Code, § 18-47)

§ 152.006 MINIMUM OFF-STREET PARKING.

(A) There shall be provided at the time of erection of any main building or at the time any main building is enlarged, minimum off-street parking space with adequate provision for entrance and exit by standard sized automobiles, as follows:

(1) In all residential districts, there shall be provided either in a private garage or on the lot, space for the parking of one automobile for each dwelling unit in a new building, or each dwelling unit added in the case of the enlargement of an existing building;

(2) Tourist homes and motels shall provide on the lot, parking space for one automobile for each accommodation;

(3) For church, school, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one parking space for every five fixed seats provided in the building;

(4) For hospitals, at least one parking space for each two-beds' capacity, including infants cribs and children's beds;

(5) For medical and dental clinics, at least ten parking spaces. Three additional parking spaces shall be furnished for each doctor or dentist having offices in the clinic in excess of three doctors or dentists;

(6) For apartments and multi-family dwellings, at least one and one-half parking spaces for each individual sleeping or living unit;

(7) For mortuaries, at least 30 parking spaces;

(8) For retail stores selling direct to the public, one parking space for each 100 square feet of retail floor space in the building; and

(9) Any other commercial building not listed above hereafter erected, converted or structurally altered shall provide one parking space for each 100 square feet of business floor space in the building.

(B) Parking space as required in the foregoing shall be on the same lot with the main building, except that in the case of buildings, other than dwellings, spaces may be located as far away as 600 feet. Every parcel of land hereafter used as a public parking area shall be surfaced with gravel, stone, asphalt or concrete. It shall have appropriate guards where needed as determined by the Administrator. Any lights used to illuminate the parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

(Prior Code, § 18-48) Penalty, see § 152.999

§ 152.007 REZONING APPLICATIONS; REQUEST FOR VARIANCES; CONDITIONAL USE PERMITS.

All rezoning applications, appeals to the Board of Zoning Appeals, and conditional use permit applications shall be filed with the Town Clerk on a form provided for same. An application fee of \$50 shall accompany each application indicated above. The application fee shall be non-refundable. For any application submitted for a rezoning request of less than an entire parcel of land, approval, if granted, is contingent upon the receipt of a certified plat of the portion to be rezoned. If an application is submitted for both a rezoning and a conditional use permit, one fee of \$50 shall be required.

(Prior Code, § 18-49)

§ 152.008 AMENDMENTS.

The regulations, restrictions, and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a favorable majority of votes of the governing body, provided:

(A) That a public hearing shall be held in relation thereto at which parties in interest and citizens shall have an opportunity to be heard;

(B) Notice shall be given in accordance with VA Code § 15.2-2204;

(C) Changes shall be made by the governing body in this chapter or the zoning map only after the changes have been referred to the Planning Commission for a report and recommendation; and

(D) Action shall be taken by the governing body only after a report has been received from the Planning Commission, unless a period of 60 days has elapsed after date of referral to the Commission, after which time it may be assumed the Commission has approved the change or amendment.

(Prior Code, § 18-58)

§ 152.009 EFFECTIVE DATE.

(A) This chapter of Boykins, Virginia, shall be effective at and after 12:01 a.m., 7-1-1984.

(B) A certified copy of the foregoing Zoning Code of Boykins, Virginia, shall be filed in the office of the Zoning Administrator of Boykins, and in the office of the Clerk of the Circuit Court of Southampton County, Virginia.

(Prior Code, § 18-64)

PLANNING COMMISSION

§ 152.020 QUALIFICATIONS, APPOINTMENT, REMOVAL, TERMS, COMPENSATION AND THE LIKE OF MEMBERS.

(A) *Membership.* The Boykins Planning Commission shall consist of five members, appointed by the governing body, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property within the Town of Boykins.

(B) *Rules regarding membership.*

(1) One member of the Commission may be a member of the governing body of the town.

(2) The term of this member shall be coextensive with the term of office to which he or she has been elected or appointed, unless the governing body, at the first regular meeting each year, appoints others to serve as his or her representatives.

(3) Appointments shall be for terms of four years each.

(4) Vacancies shall be filled by appointment for the unexpired term only.

(5) Members may be removed for malfeasance in office.

(C) *Compensation.* The Commission members shall serve without compensation.

(D) *Officers.* The officers shall consist of Chairperson, Vice-Chairperson, and secretary.
(Prior Code, § 18-2)

§ 152.021 MEETINGS.

The Commission shall meet no less frequently than once every two months.
(Prior Code, § 18-3)

§ 152.022 QUORUM; MAJORITY VOTE.

A quorum shall consist of three members and no action of the Commission shall be valid unless authorized by a majority of those present and voting.
(Prior Code, § 18-4)

§ 152.023 DUTIES.

The local Commission shall:

- (A) Exercise general supervision of, and make regulations for, the administration of its affairs;
 - (B) Prescribe rules pertaining to its investigations and hearings;
 - (C) Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the governing body;
 - (D) Keep a complete record of its proceedings, and be responsible for the custody and preservation of its papers and documents;
 - (E) Make recommendations and an annual report to the governing body concerning the operation of the Commission and the status of planning within its jurisdiction;
 - (F) Prepare, publish and distribute reports, ordinances and other material relating to its activities;
 - (G) Prepare and submit an annual budget in the manner prescribed by the governing body of the town; and
 - (H) If deemed advisable, establish an advisory committee or committees.
- (Prior Code, § 18-5)

DISTRICTS

§ 152.035 DISTRICTS DESIGNATED.

For the purpose of this chapter, the incorporated area of Boykins, Virginia, is hereby divided into the following districts:

Residential, Limited R-1
Residential, General R-2
Business, General B-1
Industrial, Limited M-1
Industrial, Limited M-2

(Prior Code, § 18-6)

RESIDENTIAL, LIMITED DISTRICT R-1

§ 152.050 PURPOSE OF DISTRICT; PROHIBITED USES.

The Residential, Limited District R-1 is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration and permitted uses are limited basically to single unit dwellings providing homes for the residents plus certain additional uses such as schools, parks, churches and certain public facilities that serve the residents of the district. No home occupations are permitted.

(Prior Code, § 18-7) Penalty, see § 152.999

§ 152.051 USE REGULATIONS.

In Residential District R-1, structures to be erected or land to be used, shall be for one or more of the following uses:

- (A) Single-family dwellings;
- (B) Schools and libraries;
- (C) Churches;
- (D) Off-street parking as required by this chapter;
- (E) Parks and playgrounds;

(F) Accessory buildings as defined, however, garages or other accessory buildings such as carports, porches and stoops attached to the main building are considered part of the main building. No accessory building may be closer than three feet to any property line;

- (G) District serving utilities, as defined;
- (H) Business signs only to advertise the sale or rent of the premises upon which erected;
- (I) Church bulletin boards; and

(J) Family day care, as defined.

(Prior Code, § 18-8) Penalty, see § 152.999

§ 152.052 AREA REGULATIONS.

For lots containing or intended to contain a single permitted use served by public water and sewage disposal, the minimum lot area shall be 15,000 square feet. For lots containing or intended to contain a single permitted use having either individual sewerage or water facilities, the minimum lot area shall be 20,000 square feet. Lots having neither public water or sewer facilities shall have a minimum lot area of 30,000 square feet.

(Prior Code, § 18-9) Penalty, see § 152.999

§ 152.053 SETBACK REGULATIONS.

Structures shall be located 35 feet or more from any street right-of-way. This shall be known as the setback line.

(Prior Code, § 18-10) Penalty, see § 152.999

§ 152.054 FRONTAGE REGULATIONS.

The minimum lot width at the setback line shall be 100 feet or more. The lot width shall front upon a street or road in the secondary system of roads under the jurisdiction of the Virginia Department of Highways and Transportation.

(Prior Code, § 18-11) Penalty, see § 152.999

Cross-reference:

Exception, see § 152.149

§ 152.055 YARD REGULATIONS.

(A) *Side.* The minimum side yard for each main structure shall be ten feet or more and the total of the two required side yards shall be 25 feet or more.

(B) *Rear.* Each main structure shall have a rear yard of 35 feet or more.

(Prior Code, § 18-12) Penalty, see § 152.999

§ 152.056 HEIGHT REGULATIONS.

Buildings may be erected up to 35 feet in height except that:

- (A) A public or semipublic building such as a school or church may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet;

(B) (1) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt.

(2) Parapet walls may be up to four feet above the height of the building on which the wall rests; and

(C) (1) No accessory building which is within 20 feet of any party lot line shall be more than one story high.

(2) All accessory buildings shall be less than the main building in height.
(Prior Code, § 18-13) Penalty, see § 152.999

§ 152.057 SPECIAL PROVISIONS FOR CORNER LOTS.

(A) Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

(B) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(C) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line of 125 feet or more.
(Prior Code, § 18-14) Penalty, see § 152.999

RESIDENTIAL, GENERAL DISTRICT R-2

§ 152.070 PURPOSE OF DISTRICT.

The Residential General District R-2, is composed of certain medium to high concentrations of residential uses, ordinarily located between residential and commercial areas, plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life composed of an adult population with some children, and to permit certain commercial uses of a character unlikely to develop general concentration of traffic, crowds of customers and general outdoor advertising. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. All residential types of structures for both permanent and transient occupancy and including institutions, are permitted, plus structures for commercial uses conforming to the pattern of

the district. This residential district is not completely residential as it includes public and semipublic institutional, and other related uses. However, it is basically residential in character and, as such, should not be spotted with commercial and industrial uses.
(Prior Code, § 18-15)

§ 152.071 USE REGULATIONS.

(A) In Residential General District R-2, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Schools and libraries;
- (4) Churches;
- (5) Parks and playgrounds;
- (6) Off-street parking as required by this chapter;

(7) Accessory buildings permitted as defined, however, garages or other accessory structures such as carports, porches and stoops attached to the main building, shall be considered part of the main building. No accessory building may be closer than one foot to any property line;

- (8) District serving utilities, as defined;
- (9) Business signs only to advertise the sale or rent of the premises upon which erected;
- (10) Church bulletin boards;
- (11) Home occupations as defined, conducted by the occupant;
- (12) Directional signs;
- (13) Home occupation signs;
- (14) Business signs not exceeding 24 square feet in area; and
- (15) Family day care, as defined.

(B) The following uses are permitted in the Residential General District R-2 provided a conditional use permit is granted by the Town Council after being reviewed by the Planning Commission:

- (1) Rest homes;
- (2) General hospitals;
- (3) Clubs and lodges;
- (4) Multiple family dwellings;
- (5) Rooming and boarding houses;
- (6) Professional offices;
- (7) Tourist homes; and
- (8) Day care centers.

(Prior Code, § 18-16) Penalty, see § 152.999

§ 152.072 AREA REGULATIONS.

(A) For lots containing or intended to contain a single permitted use served by public water and sewage disposal, the minimum lot area shall be 10,000 square feet.

(B) For lots containing or intended to contain a single permitted use served by public water systems, but having individual sewage disposal, the minimum lot area shall be 15,000 square feet.

(C) For lots containing or intended to contain a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.

(D) For lots containing or intended to contain more than a single permitted use served by public water and sewage disposal systems, the minimum lot area shall be:

Two units	15,000 square feet or more
Three units	20,000 square feet or more
For each additional unit above 3	2,000 square feet or more

(E) For permitted uses utilizing individual sewage disposal systems, the required area for any use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.

(Prior Code, § 18-17) Penalty, see § 152.999

§ 152.073 SETBACK REGULATIONS.

Structures shall be located 35 feet or more from any street right-of-way. This shall be known as the setback line.

(Prior Code, § 18-18) Penalty, see § 152.999

§ 152.074 FRONTAGE REGULATIONS.

(A) For permitted uses, the minimum lot width at the setback line shall be 80 feet or more, and for each additional unit permitted, there shall be at least ten feet of additional lot width at the setback line.

(B) The lot width shall front upon a street or road in the secondary system of roads under the jurisdiction of the Virginia Department of Highways and Transportation.

(Prior Code, § 18-19) Penalty, see § 152.999

Cross-reference:

Exception, see § 152.149

§ 152.075 YARD REGULATIONS.

(A) *Side.* The minimum side yard for each main structure shall be ten feet and the total width of the two required side yards shall be 25 feet or more.

(B) *Rear.* Each main structure shall have a rear yard of 25 feet or more.

(Prior Code, § 18-20) Penalty, see § 152.999

§ 152.076 HEIGHT REGULATIONS.

Buildings may be erected up to 35 feet in height from grade except that:

(A) The height limit for dwellings may be increased up to ten feet and up to three stories provided there are two side yards for each permitted use, in compliance with § 152.075, plus one foot or more of side yard for each additional foot of building height over 35 feet;

(B) A public or semipublic building such as a school, church, library, or hospital may be erected to a height of 60 feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet;

(C) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest; and

(D) No accessory building which is within ten feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.
(Prior Code, § 18-21) Penalty, see § 152.999

§ 152.077 SPECIAL PROVISIONS FOR CORNER LOTS.

(A) Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

(B) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(C) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line of 100 feet or more.
(Prior Code, § 18-22) Penalty, see § 152.999

BUSINESS, GENERAL DISTRICT B-1

§ 152.090 PURPOSE OF DISTRICT.

The Business, General District B-1 covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking, other than stocking and delivery of light retail goods, or by any nuisance factors, other than occasioned by incidental light and noise of congregating of people and passenger vehicles. This includes uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns, and garages and service stations.
(Prior Code, § 18-23)

§ 152.091 USE REGULATIONS.

(A) In Business, General District B-1, structures to be erected or land to be used shall be for one or more of the following uses or other uses consistent with the statement of purposes of the district:

- (1) Retail food stores;
- (2) Bakeries;
- (3) Dry cleaners;

- (4) Laundries;
- (5) Wearing apparel stores;
- (6) Drug stores;
- (7) Barber and beauty shops;
- (8) Department stores;
- (9) Auto and home appliance services;
- (10) Hardware stores;
- (11) Banks;
- (12) Office buildings;
- (13) Funeral homes;
- (14) Clubs and lodges;
- (15) Churches;
- (16) Libraries;
- (17) Public utilities;
- (18) Business signs;
- (19) General advertising signs;
- (20) Directional signs;
- (21) Locational signs; and
- (22) Restaurants and taverns.

(B) The following uses are permitted in the Business General District B-1 provided a conditional use permit is granted by the Town Council after being reviewed by the Planning Commission:

- (1) Theaters, assembly halls;
- (2) Hotels, motels;

- (3) Hospitals;
 - (4) District and non-district serving utilities;
 - (5) Auto sales and service;
 - (6) Service stations, with an approved area completely screened on all sides open to view from a public road established for the storage of old tires, batteries, wrecked or junked cars and the like;
 - (7) Lumber and building supply;
 - (8) Plumbing and electrical supply;
 - (9) Wholesale and processing not objectionable because of dust, noise or odors;
 - (10) Machinery sales and service;
 - (11) Public billiard parlors and pool rooms, bowling alleys, dance halls, arcades and the like;
 - (12) Peanut buying stations;
 - (13) Feed and seed storage;
 - (14) Liquid fertilizer and liquid nitrogen storage and distribution;
 - (15) Fire and rescue stations; and
 - (16) Retail or wholesale distribution of packaged farm chemicals and fertilizer.
- (Prior Code, § 18-24) Penalty, see § 152.999

§ 152.092 AREA REGULATIONS.

(A) None, except for permitted uses utilizing individual sewage disposal systems, the required area for any use shall be approved by the health official.

(B) The Administrator may require a greater area if considered necessary by the health official.
(Prior Code, § 18-25)

§ 152.093 SETBACK REGULATIONS.

(A) Buildings shall be located ten feet or more from any street right-of-way.

(B) This shall be known as the setback line.

(Prior Code, § 18-26) Penalty, see § 152.999

§ 152.094 FRONTAGE AND YARD REGULATIONS.

For permitted uses, the minimum side and rear yards adjoining or adjacent to a residential district shall be ten feet and off-street parking shall be in accordance with the provisions contained herein.

(Prior Code, § 18-27) Penalty, see § 152.999

§ 152.095 HEIGHT REGULATIONS.

Buildings may be erected up to 35 feet in height from grade, except that:

(A) A public or semipublic building such as a school, church, library or general hospital may be erected to a height of 60 feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet;

(B) (1) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt.

(2) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(C) (1) No accessory structure which is within ten feet of any party lot line shall be more than one story high.

(2) All accessory structures shall be less than the main structure in height.

(Prior Code, § 18-28) Penalty, see § 152.999

INDUSTRIAL, LIMITED DISTRICT M-1

§ 152.110 PURPOSE OF DISTRICT.

The primary purpose of the Industrial Limited District M-1 is to permit certain industries, which do not in any way detract from residential desirability, to locate in an area adjacent to residential uses. The limitations on, or provisions relating to, height of building, horsepower, heating flammable liquids or explosives, controlling emission of fumes, odors or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply.

(Prior Code, § 18-29)

§ 152.111 PERMITTED USES.

In Industrial Limited District M-1, any structure to be erected or land to be used shall be for one or more of the following uses:

(A) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, also the manufacture of small parts such as coils, condensers, transformers and crystal holders;

(B) Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping or battery manufacture;

(C) Blacksmith shop, welding or machine shop, excluding punch presses exceeding 40-ton rated capacity and drop hammers;

(D) Laboratories, pharmaceutical or medical;

(E) Manufacture, compounding, processing, packaging or treatment of products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet shop, toiletries and food products;

(F) Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stone, shell, straw, textiles, tobacco, wood, yarn and paint;

(G) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fires only by electricity or gas;

- (H) Manufacture of musical instruments, toys, novelties and rubber and metal stamps;
 - (I) Building material sales yards, plumbing supplies storage;
 - (J) Coal and wood yards, lumber yards, feed and seed stores;
 - (K) Contractor's equipment storage yard or paint, or rental of equipment commonly used by contractors;
 - (L) Cabinets, furniture and upholstery shops;
 - (M) Boat building;
 - (N) Monumental stone works;
 - (O) Veterinary or dog or cat hospitals;
 - (P) Fertilizer bulk and liquid storage and blending;
 - (Q) Wholesale businesses, storage warehouses;
 - (R) Liquid propane gas storage;
 - (S) Off-street parking as required by this chapter;
 - (T) District and non-district utilities, as defined;
 - (U) Business signs;
 - (V) General advertising signs;
 - (W) Location signs;
 - (X) Permit the disassembly of motor vehicles within a fully enclosed structure;
 - (Y) Permit, with a conditional use permit granted by the Town Council, the temporary storage of motor vehicles, for not more than 30 days, to be stored within a fully enclosed structure or fence completely screened on all sides open to view from a public road or private residence; and
 - (Z) Permit temporary storage or mini storage units within the district.
- (Prior Code, § 18-30) (Am. Ord. passed 9-13-2005 – (X, Y, and Z)) Penalty, see § 152.999

§ 152.112 REQUIREMENTS FOR PERMITTED USES.

(A) (1) Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator for study.

(2) The Administrator may refer these plans to the Planning Commission for their recommendation.

(3) Modifications of the plans may be required.

(B) Landscaping shall be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards. Landscaping may not exceed a height of three feet, and be no nearer than 50 feet from the corner of any intersecting streets.

(C) Sufficient area shall be provided:

(1) For adequately screening permitted uses from adjacent business and residential districts;
and

(2) For off-street parking of vehicles incidental to the industry, its employees and clients.
(Prior Code, § 18-31) Penalty, see § 152.999

§ 152.113 AREA REGULATIONS.

(A) For permitted uses utilizing individual sewage disposal systems, the required area for any use shall be approved by the health official.

(B) The Administrator may require a greater area if considered necessary by the health official.
(Prior Code, § 18-32) Penalty, see § 152.999

§ 152.114 SETBACK REGULATIONS.

Buildings shall be located ten feet or more from any street right-of-way. This shall be known as the setback line.

(Prior Code, § 18-33) Penalty, see § 152.999

§ 152.115 FRONTAGE AND YARD REGULATIONS.

(A) For permitted uses the minimum side and rear yards adjoining or adjacent to a residential district shall be 25 feet.

(B) Off-street parking shall be in accordance with the provisions contained herein.
(Prior Code, § 18-34) Penalty, see § 152.999

§ 152.116 HEIGHT REGULATIONS.

(A) Buildings may be erected up to a height of 60 feet. For buildings over 60 feet in height, approval shall be obtained from the Administrator.

(B) Chimneys, flues, cooling towers, flag poles, radio or communication towers or their accessory facilities not normally occupied by work persons are excluded from this limitation.

(C) Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.
(Prior Code, § 18-35) Penalty, see § 152.999

§ 152.117 COVERAGE REGULATIONS.

Buildings or groups of buildings with their accessory buildings may cover up to 70% of the area of the lot.
(Prior Code, § 18-36) Penalty, see § 152.999

INDUSTRIAL, LIMITED DISTRICT M-2

§ 152.130 PERMITTED USES.

The following uses of land and structures shall be permitted in an M-2 Limited Industrial District:

(A) Uses permitted in an M-1 district;

(B) Handling farm produce other than livestock and livestock products. The term **HANDLING** is limited to sampling, grading, cleaning, treating, shelling, ginning, shoring and buying and selling;

(C) Fertilizer and lime blending, storing, distribution and sales;

(D) Feed blending, storing, distribution and sales. The word *BLENDING* is defined as the physical mixing of previously prepared materials and ingredients; and

(E) Manufacture of concrete and concrete products.
(Prior Code, § 18-37.A) Penalty, see § 152.999

NON-CONFORMING USES

§ 152.145 CONTINUATION.

(A) If at the time of enactment of this chapter, there is any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, the manner of use or purpose may be continued as herein provided.

(B) If any change in title of possession, or renewal of a lease of any lot or structure occurs, the use existing may be continued.

(C) If any non-conforming use (structure or activity) is discontinued for a period exceeding **two** years after the enactment of this chapter, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this chapter.

(D) Whenever a non-conforming structure, lot, or activity has been changed to a more limited non-conforming use, the existing use may only be changed to an even more limited use.
(Prior Code, § 18-37.B)(ammended ordinance Nov. 9, 2010)

§ 152.146 REPAIRS AND MAINTENANCE.

(A) On any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10% of the current replacement value of the structure provided that cubic content of the structure as it existed at the time of passage or amendment of this chapter shall not be increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.
(Prior Code, § 18-38) Penalty, see § 152.999

§ 152.147 CHANGES IN DISTRICT BOUNDARIES.

Whenever the boundaries of a district are changed, any uses of land or buildings which become non-conforming as a result of the change shall become subject to the provisions of this chapter.
(Prior Code, § 18-39)

§ 152.148 EXPANSION OR ENLARGEMENT.

(A) A non-conforming structure to be extended or enlarged shall conform with the provisions of this chapter.

(B) A non-conforming activity may be extended throughout any part of a structure which was arranged or designed for the activity at the time of enactment of this chapter.

(C) Any non-conforming structure required by the [code](#) of the Town of Boykins to connect to the sewer system shall be allowed to construct proper toilet facilities to the structure provided the addition is equal to or less than 100 square feet.
(Prior Code, § 18-40) Penalty, see § 152.999

§ 152.149 NON-CONFORMING LOTS.

(A) Any lot of record at the time of the adoption of this chapter which is less in area or width than the minimum required by this chapter may be used when the requirements regarding setbacks, side and rear yards are met.

(B) Any lot upon which a dwelling or business is constructed may add onto the building provided the addition will be no nearer to the front, side or rear property line than the existing structure (this shall apply to permitted uses only).
(Prior Code, § 18-41) Penalty, see § 152.999

§ 152.150 RESTORATION OR REPLACEMENT.

(A) If a non-conforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 50% of the cost of the reconstructing the entire activity or structure, it shall be restored only if the use complies with the requirements of this chapter.

(B) If a non-conforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its conditions before the occurrence shall exceed 75% of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter.

(C) Where a conforming structure devoted to a non-conforming activity is damaged less than 50% of the cost of reconstructing the entire structure, or where a non-conforming structure is damaged less than 75% of the cost of reconstructing the entire structure, either may be repaired or restored, provided any repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.

(D) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost or restoration for any structure or activity devoted to a non-conforming use. (Prior Code, § 18-42) Penalty, see § 152.999

PERMITS AND CERTIFICATES

§ 152.165 ZONING PERMITS.

(A) Buildings or structures shall be started, reconstructed, enlarged, or altered only after a zoning permit has been obtained.

(B) The Planning Commission may request a review of the zoning permit approved by the Administrator in order to determine if the contemplated use is in accordance with the district in which the construction lies.

(C) Each application for a zoning permit shall be accompanied by three copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of the building or use with respect to the property lines of the parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the Administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the Administrator. One copy of the drawing shall be returned to the applicant with the permit. (Prior Code, § 18-43) Penalty, see § 152.999

§ 152.166 CERTIFICATE OF OCCUPANCY.

(A) Land may be used or occupied and buildings structurally altered or erected may be used only after a certificate of occupancy has been issued by the county building office.

(B) The permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter.

(C) A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a non-conforming use.

(D) A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit.

(E) The permit or permits shall be issued within ten days after the erection or structural alteration of the building or part has conformed with the provisions of this chapter.

(Prior Code, § 18-44) Penalty, see § 152.999

§ 152.167 CONDITIONAL USE PERMITS.

(A) Generally.

(1) Within the town, generally, or within zoning districts, certain uses specified in this chapter are of a nature requiring special and intensive review to determine whether they should be permitted in specific locations and the special conditions and safeguards which should be applied if permission is granted in these locations.

(2) Conditional use permit procedures as provided herein are intended to assure that the review is made and that appropriate conditions and safeguards are attached.

(3) Conditional use permit procedures shall be applied and conditional use permits, only as specified in this chapter.

(B) Issuance.

(1) No conditional use permit shall be issued except by the Town Council, upon a finding that in addition to conformity with any standards set in this chapter in the particular use or class of use, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended by conditions and safeguards attached by the Town Council and made part of the use permit.

(2) Violation of these conditions and safeguards, when attached, shall be considered a violation of this chapter.

(C) Effects of use.

(1) The proposal as submitted or modified will have no more adverse effects on health, safety, or comfort of persons living or working in or driving through the neighborhood, will be no more injurious to property or improvements in the neighborhood or will have no more adverse effects on the natural resources of the neighborhood and the town than would any other use generally permitted in the same district.

(2) Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes and vibration, with due regard for timing of operation, screening, or other matters which might be regulated to mitigate adverse impact and effects on natural resources.

(D) *Application for conditional use permits.*

(1) Application for a conditional use permit shall be filed with the Administrator on an application form provided.

(2) In addition to the application, two copies of a site plan for the particular use shall be prepared and shall become part of the application.

(E) *Action by Planning Commission.*

(1) Following public notice as provided in VA Code § 15.1-431, and within the time specified therein, the Planning Commission shall hold a public hearing on each application for conditional use permit.

(2) In those instances in which an applicant is requesting both a rezoning permit and a conditional use permit for the same piece of property and use, the Planning Commission may hold one public hearing for both permits, following appropriate public notice.

(3) Following the hearing, the Commission shall prepare a report indicating its recommendation as to whether the conditional use permit should be granted and as to conditions and safeguards, if any, which should be required in the particular case based upon findings as to conformity with the general standards set forth in division (C) above, and specific standards set in this chapter with respect to the particular use or class of uses.

(F) *Action by Town Council.* After giving public notice as provided in VA Code § 15.2-2204, and receiving the recommendation of the Planning Commission, the Town Council shall grant or deny the application for conditional use permit, with conditions and safeguards as recommended by the Planning Commission or with the modification of the conditions and safeguards as the governing body deems appropriate within the limitations established by general or specific standards of this chapter.

(G) *Conditional use permit applies to property, not to person.* When issued, a use permit shall apply, together with any conditions and safeguards attached, to the property for which it was issued so long as the property is used for the purpose of requiring the conditional use permit.

(Prior Code, § 18-45) Penalty, see § 152.999

§ 152.168 ISSUANCE OF PERMITS.

All departments, officials, and public employees which are vested with the duty or authority to issue permits of licenses shall conform to the provisions of this chapter. They shall issue permits for users, buildings, or other purposes only when they are in harmony with the provisions of this chapter. Any permit, if issued in conflict with the provisions of this chapter, shall be null and void.
(Prior Code, § 18-56)

BOARD OF ZONING APPEALS

§ 152.180 BOARD OF ZONING APPEALS.

(A) A Board consisting of **seven (7)** members shall be appointed by the Circuit Court of the county. The Board shall serve without pay and members shall be removable for cause upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(B) The term of office shall be for five years. One of the **seven (7)** appointed members should be an active member of the Planning Commission.

(C) Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a conflict of interest.

(D) The Board shall choose annually its own Chairperson and Vice-Chairperson who shall act in the absence of the Chairperson.

(Prior Code, § 18-50) (Ord. passed August 14, 2007)

§ 152.181 POWERS.

The Board of Zoning Appeals shall have the following powers and duties.

(A) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto.

(B) To authorize upon appeal in specific cases the variance from the terms of the chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the chapter shall be observed and substantial justice done, as follows.

(1) When a property owner can show that his or her property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the property, or of the use of development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the chapter.

(2) No variance shall be authorized by the Board unless it finds:

(a) That the strict application of the chapter would produce undue hardship;

(b) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

(c) That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

(3) No variance shall be authorized except after notice and hearing as required by VA Code § 15.2-2204, as amended.

(4) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.

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

(Prior Code, § 18-51)

§ 152.182 RULES AND REGULATIONS.

(A) The Board of Zoning Appeals shall adopt rules and regulations as it may consider necessary.

(B) The meeting of the Board shall be held at the call of its Chairperson or at a time as a quorum of the Board may determine.

(C) The Chairperson, or, in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.

(D) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating the fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the town and shall be a public record.

(E) All meetings of the Board shall be open to the public.

(F) A quorum shall be at least three members.

(G) A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

(Prior Code, § 18-52)

§ 152.183 APPEALS.

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

(Prior Code, § 18-53)

§ 152.184 PUBLIC HEARING.

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within 60 days of filing the appeal. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the chapter or to effect any variance from the chapter. The Board shall keep minutes which shall be public record. The Chairperson of the Board or, in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

(Prior Code, § 18-54)

§ 152.185 DECISIONS.

(A) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the municipality, may present to the Circuit Court of Southampton County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

(B) Upon the presentation of the petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.

(C) The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of those portions thereof as may be called for by the writ. The return shall concisely set forth any other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(D) (1) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a Commissioner to take the evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(2) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(E) Costs shall not be allowed against the Board unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

(Prior Code, § 18-55)

ADMINISTRATION AND INTERPRETATION

§ 152.200 ENFORCEMENT.

(A) This chapter shall be enforced by the Administrator who shall be appointed by the governing body. The Administrator shall serve at the pleasure of that body.

(B) Compensation for such shall be fixed by resolution of the governing body.
(Prior Code, § 18-59)

§ 152.201 INTERPRETATION.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

(A) Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracts, the center lines shall be construed to be the boundaries, as the case may be.

(B) Where a district boundary is indicated to follow a river, creek, or branch or other body of water, the boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline.

(C) If no distance, angle, curvature, description of other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on the zoning map.

(D) In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.
(Prior Code, § 18-60)

§ 152.999 PENALTY.

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating, causing, or permitting the violation of any of the provisions of this chapter shall be subject to the provisions of § 10.99.