

# Comparison of the 2023 Draft Zoning Ordinance Articles 30, 32, and 33 with the Current Zoning Ordinance (Adopted 2006)

Draft Zoning Ordinance	Current Zoning Ordinance
Article 30 (Zoning Approvals, Variances, and Appeals)	Article 4; Article 11; Article 2 (Section 2-5; Section 2-8.07); Article 1 (Section 1-6; Section 1-4)
Article 32 (Nonconformities)	Article 2 (Section 2-6); Article 6 (Section 6-8.13)
Article 33 (Enforcement)	Article 1 (Section 1-7)

## Article 30 (Zoning Approvals, Variances, and Appeals)

- **Section 30-2.B.1.c.i (Category II Site Plans)**

  - In the current Zoning Ordinance this list includes *“Communication Towers”*, which has been replaced in the draft Zoning Ordinance with the following in red text, *“Telecommunications facilities, which may include such structures as communication towers, antennas, and accessory structures.”*
  
- **Section 30-2.C.2 (Department of Planning & Zoning Review of Plot Plans)**

  - The title of this section was revised slightly and the following text in red was added to items a and b for clarification purposes, *“the Zoning Officer or its designee”*
  
- **Section 30-2.E (Procedure)**

  - The following in red text was added to item 4 in the draft Zoning Ordinance for clarification purposes, *“when a development is required to obtain both site plan and subdivision approval, the applicant may request to combine the conceptual site plan and conceptual subdivision plan into one application as an initial or revised concept application. Only the conceptual site development plan fee shall be required for combined conceptual plan submittals.”*
  - The following in red text was added to item 6 the draft Zoning Ordinance for clarification purposes, *“No structural development associated with a site plan or plot plan may be constructed under a grading permit alone (e.g. parking lots, ball fields, playground bathrooms, accessory structures, etc.) prior to receiving final plan approval.”*

- **Section 30-2.H (Revisions after Approval of Category I and Category II Conceptual or Detailed Site Development Plans)**
  - The terms “modifications” and “modified” were replaced with “revisions” and “revised” consistently throughout this section for clarification purposes
  
- **Section 30-3 (Administrative Variances)**
  - Throughout this section and the rest of the Ordinance the term, “Administrative Variance Officer” has been replaced with “Zoning Officer or its designee” for clarification purposes
  - The following provision was removed from draft Zoning Ordinance Section 30-3 (Administrative Variances), *“Extraordinary situations for sign height and parking variances shall include meeting national corporate standards.”*
    - An administrative variance may only be granted if peculiar and unusual practical difficulties or unwarranted hardships exist on a parcel, and such difficulties and hardships are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property
  
- **Section 30-3.B (Authority)**
  - The following statement in red text as added to the draft Zoning Ordinance for clarification purposes, *“The Zoning Officer may delegate the authority to grant administrative variances to the Planning Commission Administrator if a request for an administrative variance is submitted with the review and approval of a site plan, subdivision, or administrative plat.”*
  - Item 3 was added to allow for Zoning Officer or its designee to grant administrative variances for disturbance to steep slopes for the purposes of slope stabilization in the Critical Area and Natural Resource Protection Areas
  - The following statement in red text as added to item 4 in the draft Zoning Ordinance for clarification purposes, *“Administrative variances are not allowed for variances to any floodplain regulations.”*
  - Item 6 states that administrative variances are not permitted for setbacks from the following: forest retention areas, natural resource protection areas, stream buffers, wetland buffers, critical area buffers, or historic districts.
    - This provision will be removed in the next draft
  
- **Section 30-3.C (Thresholds)**
  - The following provisions from the current Zoning Ordinance were not included in the draft Zoning Ordinance:

- *“The requested variance shall not increase the maximum sign height by more than 30 percent.”*
      - This provision will be included in the next draft
    - *“For residential parking, the number of parking spaces may be reduced to a minimum of one space for single-family detached dwellings if there is an existing usable garage.”*
- **Section 30-3.D.1.c (Procedure)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“The notice shall be posted within 15 feet of the boundary line of the property that abuts the most traveled County, State or private road. If no such road abuts the property, then the sign must be posted facing in such a manner as may be most readily seen by the public.”*
- **Section 30-3.D.1.d (Procedure)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“The Department of Planning & Zoning shall send notice of a request for a variance to the Critical Area regulations to the Critical Area Commission within 15 days of receipt of a request. Within ten working days of the date a written decision or order is issued, a copy of the decision or order shall be sent to the Critical Area Commission.”*
- **Section 30-3.D.2.d (Procedure)**
  - The following provision in red text was added to the draft Zoning Ordinance for clarification purposes, *“A written justification for why the variance request meets the criteria established in item 3 below. The burden of establishing whether the application meets the administrative variance criteria under the provisions of this Ordinance is the responsibility of the applicant or the property owner.”*
- **Section 30-3.D.3.a (Procedure)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“A variance may only be granted if peculiar and unusual practical difficulties or unwarranted hardships exist on a parcel, and such difficulties and hardships are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.”*
- **Section 30-3.D.3.c (Procedure)**

- The following provision in red text was added to the draft Zoning Ordinance, *“An administrative variance for disturbance of steep slopes for the purpose of slope stabilization in the Critical Area is subject to the standards of Section 22-9.D of this Ordinance.”*
- **Section 30-3.D.5 (Procedure)**
  - The following text in red was added to the draft Zoning Ordinance, *“In granting an administrative variance, the Zoning Officer or its designee may impose conditions that are reasonable or necessary for the protection of surrounding and neighboring properties. When appropriate, the Zoning Officer or its designee may require that a written agreement be recorded among the land records maintained by the Clerk of the Circuit Court stipulating these conditions or restrictions. Any violation of conditions imposed by the Zoning Officer or its designee are considered a violation and subject to the enforcement provisions of this Ordinance. In addition, the Zoning Officer may rescind its approval of the special exception under the provisions of this article (See Section 29-6 below).”*
- **Section 30-3.D.7.c (Procedure)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“Within 30 days after the date the Critical Area Commission receives an order or decision, the Commission may file a petition for Board of Appeals review of that decision. The County may not issue a permit for the activity that was the subject of the order or decision until the Commission’s 30 day appeal period has elapsed.”*
- **Section 30-4.C (Authority)**
  - The following statement in red text was added to the draft Zoning Ordinance, *“Variances from lot area requirements that result in an increase of density shall not be granted.”*
- **Section 30-4.D.4 (Procedure)**
  - The following statement in red text was added to the draft Zoning Ordinance for clarification purposes, *“The burden of establishing whether the application meets the variance criteria under the provisions of this Ordinance is the responsibility of the applicant or the property owner.”*
- **Section 30-4.D.5 (Procedure)**

- The following statement in red text was added to the draft Zoning Ordinance for clarification purposes, *“In addition, the Board of Appeals may rescind its approval of the variance under the provisions of this article (See Section 30-6 below).”*
- **Section 30-5.D.4 (Procedure)**
  - The following statement in red text was added to the draft Zoning Ordinance for clarification purposes, *“The burden of establishing whether the application meets the special exception criteria under the provisions of this Ordinance is the responsibility of the applicant or the property owner.”*
- **Section 30-6 (Expiration and Revocation of Approvals for Administrative Variances, Variances, and Special Exceptions)**
  - This section was revised so that the policies for expiration and revocation of approvals regarding special exceptions also apply to administrative variances and variances from the Board of Appeals
- **Section 30-7.B.1 (Authority)**
  - The following statement in red text was added to the draft Zoning Ordinance for clarification purposes, *“Unless otherwise provided in this Ordinance, the Board of Appeals has the authority to hear and decide appeals where it is alleged that an error has occurred...in any approval or denial of an application for a building permit.”*
- **Section 30-9 (Reconsiderations and Appeals of Board of Appeals Decisions)**
  - The following statement in red text was added to the draft Zoning Ordinance for Clarification purposes, *“Any person aggrieved by a decision may apply for a reconsideration of a Board of Appeals decision no later than 15 days from the date of the order.”*
- **Section 30-11 (Zoning Text and Map Amendments)**
  - Provisions addressing both zoning text and map amendments (Section 1-6.01 and Section 2-5 of the current Zoning Ordinance) have been relocated to this article to group them with other provisions addressing zoning approvals
  - The following text in red was added to Section 30-11.D.1.c for clarification purposes, *“The Planning Commission will make a recommendation on the text or map amendment. The Planning Commission’s recommendation, together with any other reports and recommendations received, will be forwarded to the Board of County Commissioners. Upon receipt of the Planning Commission recommendation, the Board of County Commissioners will approve, approve with conditions or amendments, or deny an application for a text or map amendment.”*

- **Section 30-11.D.2.a (Map Amendments)**
  - In the current Zoning Ordinance, the required sign must be erected within 25 feet of the boundary line of said land which abuts the most traveled County or State road
    - In the draft Zoning Ordinance, this requirement has been revised so the required sign must be erected within 15 feet of the boundary line of said land which abuts the most traveled County or State road
  
- **Section 30-11.D.2.c.iii (Map Amendments)**
  - In following crossed out text was removed from the draft Zoning Ordinance due to redundancy, *“Even though an application for rezoning complies with all of the specific requirements and purposes of this Ordinance, the application may be denied if the proposed amendment and possible resulting development would not be compatible with neighboring land uses.”*
  
- **Section 30-11.G (RC District Map Amendments)**
  - The following statement in red text was added to the draft Zoning Ordinance, *“Any map amendments which result in an expansion of the RC District shall not be permitted.”*
    - This was included to address the Comprehensive Plan action item to “restrict the expansion of rural commercial uses and maintain a small-scale rural character”
  
- **Section 30-12 (Zoning Interpretations) and 30-13 (Zoning Verifications)**
  - The provisions of these sections were included in this Article to group them with other provisions addressing zoning approvals
  
- **Section 30-14 (Public Hearings)**
  - This section was included in the draft Zoning Ordinance for clarification purposes in regard to pre-hearing examinations, conduct at public hearings, continuances and deferrals
  
- **Section 30-15 (Revocation of Permits)**
  - This section was added to the draft Zoning Ordinance to make clear that the Zoning Officer has the authority to rescind approval of any permit if any conditions of approval are not met or if incorrect information was given by the applicant during the application process and establishes procedures
  
- **Additional Notes**

- Text was added to the ordinance to ensure it is clear that applicants must complete required checklists with their submittals
  - Some listed requirements were removed from the zoning ordinance, but these requirements will be included on checklists required for submittals
- Section 4-1.01 (Permits and Zoning Approval Required) of the current Zoning Ordinance was not included in draft Article 30, but will be included in the next draft
- Section 11-1.03 (Other Appeals to the Board of Appeals) which consists of the statement, *“The Board of Appeals shall have the authority to hear and decide other special requests as specified in this Ordinance”* was not included in the draft Zoning Ordinance but will be included in the next draft
- The statement in Section 2-5.01 of the current Zoning Ordinance (Reapplication after Denial), was not included in Section 30-11 because it is covered by a general provision applicable to all zoning applications found in Section 30-1.E of the draft Zoning Ordinance (Consideration of Successive Applications)
- In sections 30-4.D and 30-5.D the statement, *“At the hearing, any party may appear in person or be represented by an agent or attorney”* was not included in the draft Zoning Ordinance due to redundancy

## Article 32 (Nonconformities)

- **Section 32-2.A (Establishment)**
  - The definition of a nonconforming use was revised slightly in the draft Zoning Ordinance
    - The current Zoning Ordinance states, *“A Non-Conforming Use is defined as a use which lawfully existed prior to the adoption or amendment of this Ordinance, but, by virtue of the adoption or amendment of this Ordinance, is no longer a permitted use in the Zoning District within which it is located.”*
      - The draft Zoning Ordinance states, *“A nonconforming use is the use of a structure or land that at one time was an allowed use within a zoning district, but because of the adoption of the Zoning Ordinance or subsequent amendments to the Ordinance, is no longer allowed.”*
  
- **Section 32-2.B (Expansion)**

- The following statement from the current Zoning Ordinance was not included in the draft Zoning Ordinance, *“Prior to application for expansion, a certificate of nonconformity must be issued by the Zoning Officer”*
- The following statement from the current Zoning Ordinance was not included in the draft Zoning Ordinance, *“A Certificate of Non-Conformity shall be issued by the Zoning Officer prior to approval of expansion of a Non-Conforming Structure.”*
- **Section 32-2.C (Change of Use)**
  - The policy in the current Zoning Ordinance is that a nonconforming use may, with approval of the Board of Appeals, be changed to another nonconforming use which the Board of Appeals finds to be of the same or a more appropriate use or classification
    - In the draft Zoning Ordinance, this policy is proposed to be changed so that a nonconforming use can only be changed to a use allowed within the zoning district where it is located.
      - The in the draft Zoning Ordinance, this section as a whole now states, *“A nonconforming use can only be changed to a use allowed within the zoning district where it is located. When a nonconforming use has been changed, in whole or in part, to an allowed use, the whole or part that conforms cannot be changed back to a use that is not allowed in the district. A change of use occurs when an existing nonconforming use has been terminated and another use has commenced. Any change in use in violation of this Ordinance is deemed an abandonment of the previously existing nonconforming use.”*
- **Section 32-2.D (Discontinuation or Abandonment)**
  - The current Zoning Ordinance states, *“A Non-Conforming Use which has been discontinued or abandoned for nine consecutive months or for 18 months during a three-year period shall not again be used for a Non-Conforming Use except that non-conforming seasonal uses shall be permitted to continue unless discontinued or abandoned for a period of 24 consecutive months.”*
    - The draft Zoning Ordinance has been revised so that it now states, *“If a nonconforming use or seasonal nonconforming use is discontinued or abandoned for 12 consecutive months, the nonconforming use is terminated. This time period may be extended by the Zoning Officer for an additional six months. The request for an extension shall be submitted in writing to the Department of Planning & Zoning prior to the termination of the nonconforming use.”*



may add a rear addition if it meets all other dimensional regulations of the district.

- **Section 32-3.D (Expansion)**

- In the following statement, the crossed-out text was removed from the draft Zoning Ordinance due to redundancy, *“When expansion of a non-conforming structure is proposed, the entire site shall be brought into conformance ~~with the requirements of this Ordinance and/or the applicable Town Center Zoning Ordinance to the maximum extent feasible, as determined by the Planning Commission or its designee.~~”*

- **Section 32-3.E (Damage or Destruction)**

- The following statement in red text was added to the end of this section in the draft Zoning Ordinance, *“This time period to obtain a building permit may be extended by the Zoning Officer for an additional six months. The request for an extension shall be submitted in writing to the Department of Planning & Zoning within one year of the date of damage or destruction. An exception to this provision is for structures in the floodplain that are substantially damaged, which shall comply with the applicable requirements of Article 24 (Floodplain).”*
- The following statement from the current Zoning Ordinance was not included in the draft Zoning Ordinance, *“This provision does not apply if an owner of a property intentionally destroys a non-conforming structure.”*
  - This statement will be included in the next draft

- **Section 32-3.F (Nonconforming Manufactured Home)**

- This section was added to the draft Zoning Ordinance and states, *“the Zoning Officer may permit an existing nonconforming manufactured home to be replaced, expanded, or altered if it is determined to be habitable in accordance with Section 75-10 C(1)-(5), Minimum Livability Code, of the Calvert County Code.”*

- **Section 32-4 (Nonconforming Site Elements)**

- This section was added to the draft Zoning Ordinance
  - This section establishes that all nonconforming site elements must be brought into conformance when a new principal building is constructed on a site or an existing principal building is increased in building footprint square footage
    - When a parking lot does not conform to required parking lot landscape requirements, it must be brought into conformance when such a parking lot is fully reconstructed or expanded, with a few exceptions

- When exterior lighting is replaced, all exterior illumination on the site shall be brought into conformance
- **Section 32-5 (Nonconforming Signs)**
  - The provisions of Section 6-8.13 of the current Zoning Ordinance were moved to this Section
- **Additional Notes**
  - The provisions of Section 2-6.01.B and Section 2-6.02.B (Certificates of Non-Conformity) in the current Zoning Ordinance were not included in the draft Zoning Ordinance
  - The following statement from the current Zoning Ordinance (Section 2-6.01.A.2 and Section 2-6.02.A.2) was not included in the draft Zoning Ordinance, *“For the purposes of this Section, the “date of nonconformity” shall be the date of the adoption or amendment of this Ordinance; the adoption or amendment of which rendered a use non-conforming.”*
  - The following statement from the current Zoning Ordinance (Section 2-6.01.C) was not included in the draft Zoning Ordinance, *“Any use lawfully existing at the time of the adoption or amendment of this Ordinance may continue to be used even though such use is no longer permitted in the Zoning District in which it is located. Non-Conforming Uses may continue even if ownership of the property changes.”*
    - This statement will be included in the next draft
  - The following statement from the current Zoning Ordinance (Section 2-6.02.C) was not included in the draft Zoning Ordinance, *“Any structure lawfully existing at the time of the adoption or amendment of this Ordinance may continue to be used even though such use is no longer permitted in the Zoning District in which it is located. Non-Conforming Uses may continue even if ownership of the property changes.”*
    - This statement will be included in the next draft
  - The following provision, Section 2-6.01.G in the current Zoning Ordinance, was not included in the draft Zoning Ordinance, *“If a change to the Zoning Ordinance results in an existing Non-Conforming Use being permitted as a special exception use, the use shall be considered a conforming use. The owner shall automatically have a special exception and shall not be required to obtain a special exception from the Board of Appeals to continue the use. However, expansion in area of use or building area requires the approval of the Board of Appeals. The criteria to be applied by the Board of Appeals when reviewing such a request shall be the same as those contained in Section **11-1.02** or special exceptions.*

## Article 33 (Enforcement)

- **Section 33-2.A.3 (Zoning Violation Defined)**
  - The following statement in red text was added to the draft Zoning Ordinance for clarification purposes, *“Unpaid fines, fees and other arrearages due under or as a consequence of this ordinance shall constitute a continuing violation of this ordinance.”*
  
- **Section 33-3.A.4 (Notification; Correction)**
  - This section was revised and simplified so that an inspection report is required to be issued through personal delivery, by mail to the last known address, or by posting the property in a manner reasonably calculated to give notice to those persons deemed to be in violation
  
- **Section 33-3.B (Notification; Correction)**
  - The following statement from the current Zoning Ordinance was removed from this section in the draft Zoning Ordinance due to redundancy; *“The time period allowed for correction of violations is as established by policy by the Board of County Commissioners.”*
  
- **Section 33-3.D.2 (Notification; Correction)**
  - The following statement from the current Zoning Ordinance was removed from this section in the draft Zoning Ordinance due to redundancy; *“State the nature of the violation.”*
  
- **Section 33-3.D.4 (Notification; Correction)**
  - This section was revised so that a stop work order is required to be issued by personal delivery, to be served upon the owner, tenant, occupant of the property, or their authorized agent, or any other person responsible for the action giving rise to the Stop Work Order or by posting the property in a manner reasonably calculated to give notice to those persons deemed to be in violation.
    - The following statement from the current Zoning Ordinance with text crossed out was removed from item b, *“Posting the property in a manner reasonably calculated to give notice to those persons deemed to be in violation, ~~provided that service of an additional notice of violation is attempted as soon as practicable thereafter in the manner provided in this Ordinance.~~”*
  
- **Section 33-3.F (Notification; Correction)**

- The following statement was removed from item 1, *“The maximum fine allowable by law per day so long as the violation occurs.”*
  - The following text in red was added to item 1 for clarification purposes, *“Any violation of a Stop Work Order by the continuation of work or use of the property, continuing after the Stop Work Order has been posted, is subject to the maximum fine allowable by law within the adopted fee schedule for each day the violation occurs or continues. Any violation of a Stop Work Order shall constitute a continuing offense from the date of the initial violation of the Stop Work Order through the date the property is brought into compliance with this ordinance or until approved mitigation or restoration has been completed.”*
- **Section 33-3.G (Notification; Correction)**
  - The following statement in red text was added to the draft Zoning Ordinance, *“Any unauthorized removal or destruction of a posted Stop Work Order shall constitute a violation of this ordinance and shall be subject to the maximum fine allowable by law within the adopted fee schedule per day so long as the violation occurs.”*
- **Section 33-4.A (Citation; Fine)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“A pre-set fine, not to exceed the maximum allowable by law per day as long as the violation continues, may be imposed for each violation.”*
  - The list of requirements for the citation was revised slightly and methods of delivery were added for clarification purposes
  - The following statement from the current Zoning Ordinance was removed from the draft Zoning Ordinance, *“The citation may be served in person by Planning & Zoning staff and the Calvert County Sheriff’s Office.”*
- **Section 33-4.B (Citation; Fine)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“A party who receives a citation may elect to stand trial for the offense by filing with the Zoning Officer or authorized agent a notice of intention to stand trial.”*
- **Section 33-4.C (Citation; Fine)**

- The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“All fines, penalties, or forfeitures collected by the District Court for violations shall be remitted to the Calvert County Treasurer.”*
- **Section 33-5.A (Referral to District Court)**
  - The following text from the current Zoning Ordinance was removed from this provision in the draft Zoning Ordinance, *“If a party who received a citation for a violation fails to pay the fine by the due date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the party’s last known address. If the citation is not satisfied within 15 days from the date of the receipt of notice, the party is liable for an additional fine not to exceed twice the original fine.”*
- **Section 33-5.B (Referral to District Court)**
  - The following crossed out text from the current Zoning Ordinance was removed from the draft Zoning Ordinance, *“Adjudication of a violation under this section is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.”*
- **Section 33-7.A (Other Permit Applications)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“No other applications for building, grading, electrical, plumbing or use permits on the same property will be approved until a pending violation is corrected to the satisfaction of the Zoning Officer or, if referred to District Court, to the satisfaction of the Court, unless the issuance of the permit will serve one or more of the following:”*
- **Section 33-7.A.2 (Other Permit Applications)**
  - The following text in red was added to the draft Zoning Ordinance, *“To allow necessary and essential repairs from fire or natural disasters.”*
- **Section 33-7.C (Other Permit Applications)**
  - The following text in red was added to the draft Zoning Ordinance for clarification purposes, *“Any person or entity shall be ineligible for permit processing or other review until all outstanding violations, obligations, arrearages, fines or other requirements have been satisfied, irrespective of whether the aforesaid outstanding violations, obligations, arrearages, fines and other requirements concern the project or property for which permit processing or other review is requested.”*
- **Additional Notes**

- Section 1-7.01.H (Other Enforcement Provisions) from the current Zoning Ordinance was not included in the draft Zoning Ordinance due to redundancy
- Section 1-7.01.J (Time Limits for Enforcement Actions) from the current Zoning Ordinance was not included in the draft Zoning Ordinance after legal review