

SUMMARY OF PROPOSED CHANGES TO CURRENT ZONING ORDINANCE ARTICLES

This document provides descriptive summaries of the substantive and technical changes to each Article of the current (2020) Clarke County Zoning Ordinance. The document is not intended to be an all-inclusive list of changes and does not include descriptions of all minor formatting changes or wording changes for clarification purposes. For descriptive summaries of new provisions incorporated into the revised Zoning Ordinance (Article I), consult the document titled Proposed Revision of the Clarke County Zoning and Subdivision Ordinances – Narrative Summary.

ARTICLE 1 – Authority, Purposes and Intent, Planning Commission, and Zoning Administrator

- Moved Planning Commission and Zoning Administrator sections to new Section 2.2 which summarizes the role and responsibilities of all advisory and decision-making bodies.
- Zoning Administrator written zoning decisions (current Sections 1-D-4 and 1-D-5) moved to new Section 6.5 dedicated to Zoning Administrator Letters. Notice of violation language moved to new Section 10.4 (Enforcement) and expanded to describe investigation procedures and issuance of Notices of Violation.

ARTICLE 2 – Districts, Zoning Map and District Boundaries

- Section 2-A (Establishment of Districts) moved to new Section 4 (Zoning Districts) and reformatted to describe County Zoning Districts, Annexation Area Zoning Districts, and County Overlay Districts.
- Section 2-B (Official Zoning Map) moved to new Section 2.1 (Official Zoning Map). Updated language to clarify and simplify the wording.
- Section 2-C (Rules for Location of District Boundaries) moved to new Section 2.1.3 (Rules for Location of District Boundaries). Clarified that the Zoning Administrator is responsible for interpreting the district boundaries on the Official Zoning Map.
- Established a review process for zoning district map interpretations by the Board of Zoning Appeals in Section 6.4.4 (Interpretation of Zoning District Map). Current language is in Section 2-C-2.

ARTICLE 3 – District Regulations

- All County Zoning Districts (AOC, FOC, RR, CN, and CH), Annexation Area Zoning Districts (OSR, DR-1, DR-2, DR-4, BC, B, BP, and ITL), and County Overlay Districts (Flood Plain-FP, Spring Conservation-SC, Stream Protection-SPO, Historic-H, and

Historic Access Corridor-HAC) are moved to new Section 4 (Zoning Districts).

- All Uses are moved to new Section 5 (Uses). This new section includes each allowable use with a definition, use regulations (if applicable), and a chart listing the zoning districts in which they are allowed by-right, with a special use permit, or are prohibited.
- Some uses, their allowable districts, their definitions, and/or their use regulations are amended. New uses have been added some current uses have been deleted – see the document titled Changes to Zoning Ordinance Uses – County Zoning Districts for a summary of changes.
- Moved maximum lot size exception provisions in current Section 3-A-1-b to new Section 6.2.6 and established as a review process.
- Moved AOC District vegetated property buffer requirements (Section 3-A-1-f) to new Section 7.4.1 (Vegetated Property Buffer Requirements – AOC District)
- Moved FOC District vegetated property buffer and clearing limits requirements (Section 3-A-2-f) to new Section 7.4.2 (Vegetated Property Buffer Requirements – FOC District)
- Deleted minimum lot size and lot width requirements for AOC lots created for “other permitted uses” per Section 3-A-1-b-2. This section has not been applied as a restriction on locating non-residential uses on lots. Separate minimum lot size and width requirements for "other permitted uses" appears to apply to the creation of new lots for non-residential use. Minimum lot sizes for uses should be addressed in use regulations and not in conjunction with a subdivision. NOTE -- This regulation may have originated with the creation of more restrictive minimum lot sizes for residential uses in the early 1990s.
- Moved prohibition on use of waterworks and sewerage treatment works in the AOC District (Section 3-A-1-e) and FOC District (Section 3-A-2-e) to new Section 7.4.5 (Waterworks and Sewerage Treatment Works).
- Moved private driveway standards in the AOC District (Section 3-A-1-g) and FOC District (Section 3-A-2-g) to new Section 7.4.4 (Private Driveway Standards) and added new construction standards to differentiate from private road construction standards.
- Section 3-B (Application of District Regulations) – Deleted or moved subsections as follows:
 - 3-B-1 – Deleted as unnecessary.
 - 3-B-2 – Moved to new Section 9.1B (Use, Occupancy, and Construction)
 - 3-B-3 – Deleted as unnecessary.

- 3-B-4 – Deleted as this subsection can be interpreted as requiring separate building envelopes for each structure on a lot.
- 3-B-5 – Deleted as unnecessary.
- 3-B-6 – Deleted as unnecessary.
- 3-B-7 – Deleted as unnecessary.
- 3-B-8 – Deleted this subsection as it is outdated and in conflict with current Zoning Ordinance provisions relating to uses and sliding-scale zoning.
- Section 3-C (Supplementary regulations) – Renamed “use regulations” and incorporated into the applicable County uses in new Section 5 (Uses). Changes to current use regulations are as follows:
 - Amusement parks (3-C-2-a) – Deleted as there is no corresponding use.
 - Bio-solids Land Application (3-C-2-b) – Deleted regulations from the Zoning Ordinance that exceed State code requirements and moved them to the Guidance Manual to encourage voluntary compliance.
 - Circuses, carnivals, and similar temporary activities (3-C-2-e) – Deleted as there is no corresponding use.
 - Limited extraction of natural resources (3-C-2-j) – Deleted subsection 3 as stone quarries are no longer an allowable use.
 - Forestry uses and structures (3-C-2-k) – Moved Pre-Harvest Plan requirements to new Section 7.9 (Pre-Harvest Plan Regulations).
 - Gasoline pump canopies (3-C-2-l) – Moved to use regulations for new “convenience store with gasoline sales” use.
 - Home occupations (3-C-2-n) – Changes as follows:
 - Clarified who is allowed to conduct a home occupation and that all activities must be conducted on the lot containing the residence.
 - Home occupations are required to obtain and maintain all required permits, licenses, and approvals in good standing throughout the life of the use.
 - For home occupations that have customers, clients or students that come to the home, the maximum number that can be on the property at any one point in time is 12 persons in the AOC and FOC Districts regardless of

property size.

- Parking for employees that do not work on the property on a regular basis is limited to 1 space in the RR District and 3 in the AOC and FOC Districts. If the AOC/FOC lot is less than six acres in size, the parking spaces must be screened from view from adjacent properties and public rights of way.
 - Clarified what is considered to be “business equipment,” “business product,” and “licensed business vehicles.” Modified regulations according to lot size and zoning district and incorporated into a new table (see Table, “Use/Storage of Equipment and Storage of Vehicles”).
 - Deleted reference to “boarding and rooming homes” and “tourist homes” as these are not listed uses and are not currently defined.
 - New language to allow a special use to be operated as a home occupation if it can be done so within the parameters of the home occupation use regulations.
- Hospitals (3-C-2-o) – Deleted regulations as hospitals are not an allowable use in County Zoning Districts.
 - Intensive livestock, dairy, or poultry facility (3-C-2-q) – Moved development plan regulations (3-C-2-q-3) to new Section 6.2.8 (Intensive Livestock, Dairy, or Poultry Facility Development Plan) and established as a review process.
 - Hotels (3-C-2-p) and motels (3-C-2-v) – Supplementary regulations combined under “hotel” use.
 - Motor vehicle sales and service (3-C-2-w) – Deleted regulations as this use is proposed for deletion.
 - Noncommercial telecommunication antennae, structures up to 80 feet high (3-C-2-x) – Deleted regulations as this use expired on October 18, 2014. See current regulations for Class 6 antenna support structures under “Wireless Communication Facility (WCF)” use.
 - Siting of propane tanks (3-C-2-y) – Moved to new Section 7.10.
 - Public and semi-public uses (3-C-2-z) – Subsection 1 pertaining to private schools is added to County use regulations for “community services facility.” Subsection 2 is added to County use regulations for “churches and other places of worship.”

- Public assemblies (3-C-2-aa) – Incorporated into County use regulations for “minor commercial public assembly” use.
 - Racetracks (3-C-2-cc) – Deleted regulations as racetracks are not an allowable use.
 - Recreational facilities as an institutional use (3-C-2-dd) – Deleted regulations as they currently apply to recreational facilities in the ITL District. Town of Berryville use regulations will be used for this Annexation Area use.
 - Retail and service businesses that are permitted principle uses (3-C-2-ee) – Incorporated into County use regulations for “retail business” use.
 - Retail and service businesses that are special uses (3-C-2-ff) – Incorporated into County use regulations for “retail business” use.
 - Theaters (3-C-2-ii) – Regulations for indoor theaters retained in the County use “indoor theater.” Deleted regulations for “outdoor, motion picture theater” as “outdoor theater” is proposed for deletion.
 - Veterinary Services, Animal Hospitals, Commercial Boarding Kennels, Breeding Kennels, Animal Shelters (3-C-2-jj) – Regulations moved to new individual County uses for “veterinary clinic,” “commercial boarding kennel,” “commercial breeding kennel,” and “animal shelter, governmental.” Regulations are modified as applicable to the uses in specific zoning districts.
 - Wayside stands (3-C-2-kk) – Deleted regulations as this is no longer an allowable use. See County use “wholesale or retail sale of agricultural products.”
- Supplementary Regulations for Development in Annexation Area B (3-C-3) – Moved to new Section 7.7 (Annexation Area B Development Regulations).
 - Private Access Easements (3-C-4) – Moved to new Section 7.11 (Use of Private Access Easements). Also reference changes to private access easement regulations in Subdivision Ordinance Article II, Section 4.5.3 (Private Access Easements).
 - Allocation of Single-Family Detached Dwelling Unit Rights in the Agricultural-Open Space-Conservation (AOC) and the Forestal-Open Space-Conservation (FOC) Districts and Lot Size in the AOC District (3-D-4) – Moved to new Section 3 (Sliding-Scale Zoning) with the following changes:
 - Moved definition of “farmstead” to Section 3.1B (Definitions). Deleted language in definition requiring a farmstead to be occupied by the owner or operator of an agricultural and/or forestal operation.

- Moved definition of “tract” to Section 3.1B (Definitions). Added language to clarify that a tract is the lot existing as of October 17, 1980 upon which the initial allocation of dwelling unit rights was made in accordance with this Section. Moved language about lots divided by a public road to new Section 3.12 (Lots Divided by a Public Road).
- Moved Allocations (3-D-2) to new Section 3.2 and added language to note that DURs can only be allocated, re-allocated, or transferred in accordance with the provisions of Section 3. Added a new table (See Table 3.2[2], Compliance with Dwelling Unit Right (DUR) Allocation Table 3.2[1] Required).
- Moved Section 3-D-5 (Errors in 1980 Tax Map) to new Section 3.5 and added language to Subsection A to allow a property description as evidence of tax map error in addition to a plat.
- Moved Section 3-D-6 (Burden of Proof) to new Section 3.6 and replaced “maximum lot size increase” with “allocation” as the new term is more applicable to this Section.
- Moved Section 3-D-9 (Boundary Line Adjustment of Lots or Parcels of Land in the AOC/FOC Districts) to new Section 3.9 (Boundary Line Adjustments of Lots in the AOC and FOC Districts) and simplified the language in Subsection A to reference compliance with the DUR allocation table (Table 3.2[1]).
- Moved Section 3-D-10 to new Section 3.10. Deleted “and approved by the Clarke County Board of Supervisors” in Subsection A3 as the Board does not approved conservation easements accepted by outside easement-holders.
- Section 3-E (Schedule of Overlay District Regulations) moved to new Section 4.2 (County Overlay Districts) with the following changes:
 - Section 3-E-1 (Flood Plain District (FP)) moved to new Section 4.2.1 (Flood Plain Overlay District (FP)). Extensive changes were made to this Section in order to comply with an update mandated by the Federal Emergency Management Agency (FEMA) and the Virginia Department of Conservation and Recreation (DCR). New and revised provisions were developed using DCR’s model ordinance. Provisions unique to Clarke County were preserved unless in direct conflict with the DCR model ordinance.
 - Section 3-E-3 (Historic Districts (H)) moved to new Section 4.2.4 (Historic Overlay District with minor changes for clarity purposes and to update code citations. Subsection (d) (Historic Preservation Commission) moved to new Section 2.2.5. Subsection (e) (Certificate of Appropriateness) moved to new Section 6.2.5B as a review process.

- Section 3-E-4 (Historic Access Corridor Overlay District (HC)) moved to new Section 4.2.5 (Historic Access Corridor Overlay District (HAC)) with minor changes for clarity purposes and to update code citations. Subsection (c) moved to new Section 6.2.5C as a review process. Subsection (d) moved to new Section 7.6 (Historic Access Corridor Overlay District (HAC) Design Standards). Additional substantive changes as follows:
 - Section 3-E-4-c-4 – Deleted the required number of copies to be provided with an application. This will be moved to the Guidance Manual.
 - Section 3-E-4-c-8 – Changed required public meeting before the Planning Commission to a public hearing.
- Section 3-E-5 (Stream Protection Overlay District (SP)) moved to new Section 4.2.3 (Stream Protection Overlay District (SPO)) with changes as follows:
 - Incorporated buffer widths and slope percentages from current Section 3-E-5-a into new Table 4.2.3[1] (Increased Buffer Widths for Sloped Stream Banks).
 - Deleted current 3-E-5-a-2 as it is advisory language (“should”) and is not compulsory.
 - Incorporated stream buffer plantings from current Section 3-E-5-b-3 into new Table 4.2.3[2] (Planting Specifications).
 - Incorporated required plant material from current Section 3-E-5-b-4 into new Table 4.2.3[3] (Required Plant Material in Buffer Area).
 - Moved mitigation plan requirements in current Section 3-E-5-f to new Section 6.2.9 (Stream Buffer Mitigation Plan) as a review process.

ARTICLE 4 – General Regulations

- Deleted Section 4-A (Application) as unnecessary.
- Uses Generally (Section 4-B) is a “catch-all” section containing several different provisions related to uses. Subsections within current 4-B are moved and/or amended as follows:
 - Section 4-B-1 (Uses Not Provided For) describes the process for Zoning Ordinance text amendments to add a new use. Text amendments are addressed as a review process in new Section 6.3.6 – it is not necessary to have a separate review process for text amendments to add a new use. The portions of the process regarding initiating consideration of a text amendment and time limit for review are amended to conform to Code of Virginia requirements.

- Section 4-B-2 (Structure That is Temporary) – Created four new temporary uses from this current section in new Section 5.4. These are “temporary dwelling,” “temporary office trailer,” “temporary structure,” and “temporary use of recreational vehicles.” Subsection (b) pertaining to temporary parking of manufactured (mobile) homes or structures is moved to the use regulations for “manufactured home.”
 - Section 4-B-3 (Houses Displayed for Advertising Purposes) – Moved to new temporary use “Model Home” in new Section 5.4. Required to be located in the subdivision or development that the model home is being used to market.
 - Section 4-B-4 (Temporary Structure) moved to new temporary use “Temporary Structure” in new Section 5.4.
- Residential Occupancy of Accessory Buildings (Section 4-C-1) moved to use regulations for “Accessory Structure” in new Section 5.2.
 - Parking, Storage, or Use of Major Recreational Equipment (Section 4-C-2) moved to use regulations for “Temporary Use of Major Recreational Equipment” in new Section 5.4.
 - Limitation on Parking or Storage of Inoperable Vehicles (Section 4-C-3) moved to new Section 7.12 (Parking and Storage of Inoperable Vehicles). Language referencing inoperable vehicles on properties zoned for residential, agricultural, forestal, or commercial purposes is deleted as these regulations apply to all zoning districts. Removal notice requirements in subsection (c) deleted – notice requirements for zoning violations in general (new Subsection 10) apply.
 - General Requirements Concerning Arrangement and Location of Structures (Section 4-D) is moved to new Section 7.1.2A.
 - Erection of More Than One Principal Structure on Lot (Section 4-E) is moved to new Section 7.1.2B.
 - Stormwater Management (Section 4-F) is moved to new Section 7.2.7B.
 - Lot Regulations (Section 4-G) is moved to new Section 7.1.1 (Lot Regulations and Measurements) or Section 7.1.2 (Structure Regulations) with edits as follows:
 - Section 4-G-1 (Lot Access Requirements) is deleted as a building permit cannot be denied on grounds that a lot does not have access to a public road or private access easement.
 - Section 4-G-2 (Visibility Clearance at Intersections) methodology is updated in consultation with the Virginia Department of Transportation on methods they use for determining sight distance. Moved to new Section 7.1.1F.

- Section 4-G-3 (Uses and Structures Permitted in Required Setback Areas) is moved to new Section 7.1.2C. Regulations for gasoline pump canopies are repeated in the use regulations for “convenience store with gasoline sales.”
- Section 4-G-4 (Regular Lots) is moved to new Section 7.1.1C.
- Section 4-G-5 (Irregular Lots) is moved to new Section 7.1.1D.
- Section 4-G-6 (Lot Coverage by Buildings) is moved to new Section 7.1.1E.
- Height Regulations (Section 4-H) is moved to new Section 7.1.2D (Structure Height Regulations) with edits as follows:
 - Subsection 2-a (Fire Protection) is deleted – would be addressed by applicable building and fire codes and the departments responsible for enforcing those codes.
 - Subsection 2-b (Aviation Hazards) is deleted – would be regulated by the Federal Aviation Administration.
 - Subsection 3-a-1 – Exception for agricultural structures to height requirements is moved to the regulations for zoning districts that allow agriculture as a permitted use – AOC (new Section 4.1.1B-2), FOC (new Section 4.1.2B-4), CH (new Section 4.1.5B-2), and ITL (new Section 4.3.8B-1).
 - Removed “tower” from Subsection 3-a-4 to avoid confusion with wireless communication facilities (WCFs).
- Sign Regulations (Section 4-I) is moved to new Section 7.8 with significant edits as follows:
 - Subsection 1 (General) is deleted and replaced with a new Section 7.8.1 (General Provisions) that addresses zoning permit requirements, governmental sign exemptions, and how to calculate sign area.
 - Subsection 2 (Signs Prohibited) is moved to new Section 7.8.3 with the following edits:
 - Subsection 2-a (Violates Virginia law) is deleted as this repeats the language for billboard signs in Subsection 2-g.
 - Subsection 2-b (Other Than on Property or Structure to Which It Directs Attention) is mostly deleted as an illegal content-based description. Provisions pertaining to governmental signage is retained in new Section 7.8.1.

- Subsection 2-e (Casts Glare on Highway or Adjoining Property) is moved under 7.8.2A-3c (Illumination of freestanding signs).
 - Subsection 2-g (Billboards) edited to reference applicable Code of Virginia requirements.
 - Subsection 2-h is deleted as it does not make sense.
 - Subsection 2-i (Changeable message signs) is moved to new Section 7.8.2D as a new class of permitted signs subject to the area requirements for freestanding or wall-mounted signs as applicable.
 - Subsection 2-k (Time and temperature signs) is merged into new Section 7.8.2D as a type of changeable message sign.
- Subsection 3 (Signs Permitted) is moved to new Section 7.8.2 (Permitted Signs) with edits as follows:
- Subsection 3-a is deleted as zoning authority over signs on County properties cannot be delegated to the Town of Berryville.
 - Maximum area and height table in Subsection 3-b-1 is reformatted in new Table 7.8[1] (Freestanding Sign Area and Height Requirements by Zoning District). For Annexation Area Residential Districts (OSR, DR-1, DR-2, and DR-4), maximum area and height requirements for RR District Permitted Uses are applied. For Annexation Area Commercial Districts (BC, B, BP, and ITL), requirements for the CN District are applied.
 - Subsection 3-d (Hunting, Fishing, or Trespassing Signs) is moved to new Section 7.8.2F (Signs prohibiting hunting, fishing, and/or trespassing). Language is clarified and new wording added to state that no zoning permit is required.
 - Subsection 3-e (Directional signs in all zoning districts) is moved to new Section 7.8.2A-4 and edited to apply only to onsite freestanding signs that delineate the flow of traffic from the public right of way to property entrances and exits. These signs are not counted against the total number of allowable freestanding signs on a lot.
 - Subsection 3-f (Temporary signs) is moved to new Section 7.8.2C and edited as follows:
 - No zoning permit is required for a temporary sign but compliance with the regulations is required.

- Subsection 7 (Joint Parking Facilities) uses a table that does not make sense. This is replaced with new Table 7.2.5[1] (Factors for Joint Parking Facility Calculation) that uses data from the original source of the current table in a format that now makes sense. An illustrative example is added to demonstrate how to use the table.
- Subsection 10 (Off-Street Parking Standards) currently lists parking requirements for uses as well as activities that are not specific allowable uses. This section is reformatted into new Table 7.2.5[2] (Minimum Off-Street Parking Requirements) that applies parking requirements for each allowable County use, Annexation Area use, and Temporary use listed in new Section 5 (Uses). Requirements are organized by use category and by use. Where no current parking requirements exist for a use, new requirements were developed from similar uses.
- Subsection 12 (Minimum Parking and Loading Spaces for Uses Not Specified) is deleted as unnecessary since parking requirements for all listed uses have been established.
- Section 4-K (Nonconforming Lots, Uses and Structures) – Moved to new Section 9 (Nonconformities) with edits as follows:
 - Subsection 3 (Nonconforming Lots of Record) is moved to new Section 9.2 (Nonconforming Lots) with the following edits:
 - In Subsection 3-a (General), the language regarding application of setback requirements to lots nonconforming as to width is deleted. This language requires application of the side yard setback that was in effect on the date the plat of the lot was recorded. In some cases, there is no recorded plat for a lot or the plat was recorded prior to the adoption of the first Zoning Ordinance.
 - Subsection 3-b (Prohibition against creation of other lots below width and area requirements for district) is deleted as unnecessary. Other provisions of the Zoning Ordinance ensure compliance with the intent of this subsection.
 - Subsection 3-d (Damage or destruction of conforming use and/or structure) is deleted. Uses cannot be damaged or destroyed and replacement of damaged or destroyed structures is addressed in new Subsection 9.4 (Nonconforming Structures).
 - Subsection 4 (Nonconforming Uses of Land) is moved to new Section 9.3 (Nonconforming Uses) with the following edits:

- Subsections 4-b-1, 2, and 4 are combined into new Section 9.3A-1 (No Expansion of Nonconforming Use).
 - Subsection 4-b-3 is deleted as unnecessary.
 - Subsection 4-b-5, which allows a nonconforming use to be replaced with a different nonconforming use by following the special use permit process, is deleted.
 - Section 4-b-8 regarding off-premises signs is deleted. Nonconforming signs are addressed in new Section 9.5 with specific reference to State Code requirements for billboards in Section 9.5D.
- Subsection 5 (Nonconforming Structures) is moved to new Section 9.4 with the following edits:
 - Subsection 5-b-1 (Not Enlarged) is moved to new Section 9.4A-1 with language added to clarify that conforming portions of a nonconforming structure may be enlarged or extended so long as the nonconforming elements are not expanded.
 - Subsection 5-b-3 (Destruction of Structure) is moved to new Section 9.4A-3 with language added to track Code of Virginia requirements.
 - Subsection 5-b-4 (Unsafe Structures) is moved to new Section 9.4A-4 with language regarding nonconforming uses deleted (not applicable to a nonconforming structure).
 - Subsection 6 (Uses Eligible for Special Use Permits Not Nonconforming Uses) was actually deleted by text amendment in 2009 but was not removed from the current Ordinance. This subsection will not be included in the revised Ordinance.
 - Subsection 7 (Changes in District Boundaries) is deleted as unnecessary.

ARTICLE 5 – Special Use Permits

- Article 5 is moved to new Section 6.3.1 (Special Use Permit) and formatted as a review process. A new Section 6.3.2 (Special Use Permit Amendment) is established as a review process for amending previously approved special use permits.
- Section 5-A (General) is deleted as unnecessary.
- Section 5-B (Procedure) is formatted into the new standard layout for review processes (Procedures – Subsection B, Review Criteria and Regulations – Subsection C, Expiration – Subsection D, and Revocation – Subsection E. Edits are as follows:

- Subsection 1-a (Pre-application Conference Requirement) is moved to new Subsection 6.3.1B-2. Standard procedures for pre-application conferences are found in new Section 2.4B (Pre-Application Conference).
- Subsection 1-b regarding who may apply for a special use permit is addressed in new Section 2.4.2 (Application Filing and Representation by Person or Entity Other Than Property Owner).
- Subsection 1-c regarding number of copies to be provided is deleted – now referenced in the Guidance Manual. Reference to site development plan submission requirement is in new Section 6.3.1B-3a.
- Subsection 1-d referencing the Zoning Administrator’s authority to request additional information is incorporated into the Zoning Administrator description in new Section 2.2.7 (Zoning Administrator).
- Subsection 2 (Recommendation by Planning Commission) is reformatted to reference “advisory body” which can be either the Planning Commission or Berryville Area Development Authority depending upon the location of the subject property. Subsection is reformatted in new Section 6.3.1B-3 which describes the application filing, processing, and review by approval authority processes.
- Subsection 3 (Action by Board of Supervisors) is reformatted in new Section 6.3.1B-3 which describes the application filing, processing, and review by approval authority processes.
- Subsection 4 (Procedures before Planning Commission and Board of Supervisors) is also reformatted in new Section 6.3.1B-3. The process for deferral of applications is described in new Section 2.4.3 (Deferral of Application Review).
- Subsection 5 (Criteria for Action on Special Use Permit) is amended as follows to reference review “factors” that can be considered in addition to any other factors deemed applicable by the approval authority, in considering a special use permit application:
 - Subsection 5-a – Amended to reference implementing component plans. New 6.3.1C-2a.
 - Subsection 5-b – Deleted as unnecessary.
 - Subsection 5-c – Changed the word “consistent” to “compatible.” New 6.3.1C-2b.

- Subsection 5-d – Deleted criterion regarding impact to property values as interpretation is very subjective.
- Subsection 5-e -- Clarified that undue adverse impacts on conservation value or impeding operations of an active agricultural or forestal operation will be considered. New Section 6.3.1C-2c.
- Subsection 5-f – Clarified that compliance with Virginia Department of Transportation (VDOT) requirements is required. New Section 6.3.1C-2d.
- Subsection 5-g – Minor edits. New Section 6.3.1C-2e.
- Subsection 5-h – Wording expanded to describe specific rare and irreplaceable natural areas and areas of outstanding natural beauty. New Section 6.3.1C-2f.
- Subsection 5-i – Incorporated wildlife and plant habitats into Section 6.3.1C-2f.
- Subsection 5-j – Minor edits. New Section 6.3.1C-2h.
- Subsection 5-k – Minor edits. New Section 6.3.1C-2i.
- Subsection 5-l – Incorporated undue surface or groundwater pollution into new Section 6.3.1C-2f.
- Subsection 5-m – Deleted as septic system impacts would be addressed by the Virginia Department of Health (VDH).
- Subsection 5-n – Deleted as soil erosion would be addressed through review of an erosion and sediment control plan.
- Subsection 5-o – Deleted as flooding would be addressed through flood plain regulations found in Section 4.2.1 (Flood Plain Overlay District) and through the Virginia Department of Environmental Quality’s (DEQ) review of a stormwater management plan.
- Subsection 5-p – Deleted as DEQ regulates air pollution. Undue odors or fumes are addressed in new Subsection 6.3.1C-2g.
- Subsection 5-q – Moved to new Subsection 6.3.1C-2g with no changes.
- Subsection 5-r – Deleted as unnecessary.

- Subsection 5-s – Rewritten to focus on whether screening and/or buffering is provided to mitigate detrimental visual impacts.
 - Subsection 6 (Special Use Deemed Approved) is deleted. Existing deemed special uses are addressed in new Section 9.7 (Deemed Special Use Status) and will continue to be recognized unless revoked by the Board of Supervisors.
- Subsection 5-C (Revocation) – Moved to new Section 6.3.1E. Deleted last sentence in current Subsection 1 regarding special use permits approved before November 16, 2004 as this regulation is outdated.
- Subsection 5-D (Required Amendment) – Moved to new Section 6.3.2 and reformatted as the review process for Special Use Permit Amendment.

ARTICLE 6 – Site Development Plans

- Article 6 provisions pertaining to the application and review of a site development plan is moved to new Section 6.2.2 (Site Development Plan) and reformatted as a review process. New Section 6.2.3 (Site Development Plan Amendment) is established as a review process for amending previously approved site development plans. New Section 6.2.4 (Administrative Site Development Plan) is established as a review process for certain site development plans that can be approved by the Zoning Administrator.

Required elements of a site development plan and applicable design standards and regulations are moved to new Section 7.2 (Site Development Plan Design Standards and Development Regulations).

- Section 6-A (Intent) is incorporated into the descriptive header for new Section 6.2.2.
- Section 6-B (When Required) is moved to new Section 6.2.2A with minor edits for clarity purposes.
- Section 6-C (Waiver of Requirements) – This section is edited and divided into “Waiver of Review Process” in new Section 6.2.2C-1 and “Waiver of Requirements” in new Section 7.2.1B. The former allows the Zoning Administrator to allow a zoning permit application to be filed instead of a site development plan for additions or modifications to buildings, structures, and uses if the addition does not substantially affect the intent of this section. The latter allows the approval authority to waive certain design standards or development requirements if the waiver is not inconsistent with Section 7.2, if undue hardship would result, or if the requirement is unreasonable.
- Section 6-D (Administration) – Subsections 1 and 2 pertaining to when the Planning Commission and BADA act as approval authority is edited and moved to new Section 6.2.2B-1. Subsections 3 and 4 are deleted as unnecessary – duties of the Commission and BADA are outlined in their respective administrative sections in new Section 2 (Administration). Subsection 5 regarding inspections is amended to authorize only the

Zoning Administrator to conduct inspections.

- Section 6-E (Procedures) – This section is generally moved to new Section 6.2.2B (Review Procedures) with edits and deletions described below:
 - Subsection 1 (Pre-Application Conference Requirement) is moved to new Subsection 6.2.2B-2. Standard procedures for pre-application conferences are found in new Section 2.4B (Pre-Application Conference).
 - Subsection 2 (Application) is reformatted in new Section 6.2.2B-3 (Application Filing, Processing, and Review by Approval Authority). Language regarding required number of copies and format for electronic submission are deleted and moved to the Guidance Manual. Section 2-f regarding fees is addressed generally in the new administrative section on Fees (Section 2.6).
 - Subsection 3 (Action on Site Plan Application) is edited as follows:
 - Subsections 3-a and 3-b are incorporated into new Section 6.2.2B-3 (Application Filing, Processing, and Review by Approval Authority).
 - Subsection 3-c (Action by the Administrative Body) is moved to new Section 6.2.2C-3 (Action by the Approval Authority). In 3-c-1, deleted requirement that a site development plan be in conformance with the Comprehensive Plan or Berryville Area Plan. In 3-c-2, clarified that the approval authority can grant approval conditioned upon the applicant making certain administrative changes or modifications to be verified by the Zoning Administrator upon completion. In 3-c-2, deleted requirement that the approval authority provide reasons for disapproval in writing and replaced with requirement that the reasons be stated in the motion to deny the application.
 - Subsection 3-d (Appeals) is amended to require appeal to the Board of Zoning Appeals as specified in the Code of Virginia.
 - Clarified Subsection 3-e in new Subsection 6.2.2B-1c that the Board of Supervisors is the approval authority for site development plans submitted with rezoning or special use permit applications.
 - Subsection 4 (Compliance with Conditions) is moved to new Section 6.2.2B-4 (Submission of Final Plan for Signature). Specific filing requirements (e.g., number of copies) is deleted and moved to the Guidance Manual.
 - Subsection 5 (Approval Expiration) is moved to new Section 6.2.2D (Expiration).

- Section 6-F (Specifications) is deleted and moved to the Guidance Manual. New Section 2.2.7 authorizes the Zoning Administrator to establish administrative procedures such as the quantity, format, and size of site development plans to be submitted.
- Section 6-G (Contents) is moved to new Section 7.2.1A (Required Components of a Site Development Plan) with edits as follows:
 - New Subsection 2 requiring source of title of the owner of record.
 - Current Subsections 2 and 3 are combined into new Subsection 3.
 - Deleted second sentence in Subsection 9 regarding size and height of existing buildings as it is redundant with new Subsection 15. Moved to new Subsection 10.
 - Deleted second sentence in Subsection 12 as VDOT's curb and gutter requirements would apply.
 - Replaced Subsection 13 with new Subsection 24 referencing a required off-street parking plan per new Section 7.2.5 (Parking Regulations).
 - Replaced Subsections 14 and 23 with new Subsection 23 referencing a required landscaping plan per new Section 7.2.4 (Landscaping Design Standards) and a new Subsection 25 referencing a required outdoor lighting plan per Section 7.2.6 (Outdoor Lighting Standards).
 - Deleted Subsection 16 regarding stormwater management – defer to DEQ stormwater management oversight.
 - Replaced Subsection 17 with new Subsection 26 referencing a required erosion and sediment control plan demonstrating compliance with County Code Chapter 148).
 - Replaced Subsection 19 with new Subsection 27 referencing flood plain information for any portion of the subject property in the Flood Plain Overlay District.
 - Replaced Subsection 20 with sign information demonstrating compliance with new Section 7.8 (Sign Regulations).
 - Moved Subsection 22 to new Subsection 7.2.4C (Existing Trees) requiring the referenced information to be shown on the landscaping plan.
 - Deleted Subsection 26 requiring distance to nearest school or school site as this bears no relation to any current or proposed regulation.

- Replaced Subsection 35 regarding traffic studies and information with new Subsection 32 regarding transportation information submitted to VDOT for compliance review.
- Moved Subsection 36 to new Subsection 33 and edited to apply only to projects in the Berryville Annexation Area.
- Moved Subsection 38 to new Subsection 35 with new reference to Section 8 (Performance and Maintenance Guarantees).
- Section 6-H (Improvements and Minimum Standards) -- This section is divided mostly among various subsections in new Section 7.2 (Site Development Plan Design Standards and Development Regulations) with edits as described below:
 - Subsection 1 (Streets and Rights of Way) is moved to new Section 7.2.2 (Streets, Public Rights-of-Way, and Pedestrian Facilities) with the following edits:
 - Added language to note that traffic studies can be required by VDOT.
 - Deleted second sentence in Subsection 1-b as the approval authority should not be modifying street design standards.
 - In Subsection 1-d, changed “connectors” and “connections” to “access points.”
 - Modified Subsection 1-e to reference compliance with implementing component plans in addition to the Comprehensive Plan and Berryville Area Plan. Removed “to the satisfaction of the Administrative Body or Agent” as VDOT would be responsible for approving road construction.
 - Amended Subsection 2 (Cul-de-Sacs) to reference VDOT requirements instead of Subdivision Ordinance. Moved to new Section 7.2.2G.
 - Subsection 3 (Parking) is deleted as parking is addressed by new Section 7.2.5 (Parking Regulations).
 - Subsection 7 (Water and Sewer Systems) is moved to new Section 7.2.3B and renamed “Public Water and Public Sewer Systems” to distinguish from private systems.
 - Subsection 8 (Site Development Plans; Improvements and Minimum Standards; Stormwater Management) is moved to new 7.2.7B (Stormwater Management) and edited to state that if a stormwater management plan is required by state law, a copy of the submission must be filed with the site development plan and the stormwater management plan must be approved before the site development plan

can be approved.

- Subsection 10 (Landscaping Design Standards) is moved to new Section 7.2.4 and edited as follows:
 - Subsection a (Purpose) – Moved to new Section 7.2.4A and deleted Code of Virginia references in Subsections 6 and 7 as unnecessary.
 - Added new Section 7.2.4B (Preparation of Landscaping Plan and Certification of Plantings) to describe which professionals may prepare a landscaping plan under which circumstances. Also requires inspection by specified professionals of any existing trees proposed for credit, and final inspection of all new plantings.
 - Subsection b (Existing Trees) – Moved to new Section 7.2.4C and rewritten to incorporate provisions for tree protection during construction and replacement of trees damaged or destroyed during construction. Includes a new Subsection 4 to allow credit for preservation of existing trees.
 - Subsection c (Buffer-areas) – Moved to new Section 7.2.4D (Buffer Area Landscaping). Minimum buffer area width requirements are clarified in new Table 7.2.4[2] with new use categories and explanations of which zoning districts are included in each category. Required plant material is clarified in new Table 7.2.4[3] with minimum planting size requirements clarified in new Table 7.2.4[4]. Concepts regarding use of fences, walls, and additional plant material incorporated into new Section 7.2.4H which allows for an alternative landscaping plan.
 - Tree and shrub specifications in Subsection 7-a through e are incorporated into new Table 7.2.4[5] (Specifications for Trees and Shrubs). Leyland cypress is now listed as a prohibited evergreen species.
 - New Section 7.2.4H allows for alternative landscaping plans to be proposed to address site specific conditions. Allows for reduced planting rates, alternative locations due to presence of public facilities, provision of screening fences and walls, and other methods to achieve the intent of this Section.
 - Subsection g (Maintenance Standards) is moved to new Section 7.2.4I (Maintenance Standards). Prohibition on use of public water or groundwater for watering plant material more than one year after installation is deleted. Language regarding rain catchment systems is moved to the alternative landscaping plan section (new Section 7.2.4H).

- Edited current Subsection b-3-a to require a zoning permit application with a site sketch for Class 5 WCFs instead of a site development plan. Subsections b3-b and c are moved to the use regulations for the WCF use in new Section 5.2C. Current Subsection b-3-a moved to new Section 7.3C-3a.
 - “Review Procedures by Class” table is deleted and moved to the Guidance Manual.
- Subsection 13 (Erosion and Sediment Control) is moved to new Section 7.2.7A and edited to reference the requirements of Code of Clarke County Chapter 148 (Erosion and Sediment Control Ordinance) which governs the County’s program. Reference to the Zoning Administrator/Code Enforcement Officer is deleted as Chapter 148 describes the plan approval authority.
- Subsection 15 (Sinkhole and Karst Features) is moved to new Section 7.2.7D (Geotechnical Issues – Karst and Sinkholes) with the following edits:
 - Definitions in Subsection b are moved to new Article III (Definitions).
 - In Subsection c (Site Review), reference to “examination for karst features” to be completed prior to any public hearing process is amended to require submission of a report in conjunction with the site development plan.
- Section 6-I (Construction and Bonding) – Moved to new Section 7.2.8 (Plan Approval and Construction) with the following edits:
 - Referenced the posting of all required performance guarantees per Section 8 (Performance and Maintenance Guarantees) prior to conducting any site improvement activities.
 - Deleted reference to approval of an erosion and sediment control plan, approval of bonding, and installation of erosion control measures in Subsections 1-a through c as redundant.
 - Deleted Subsection 4 regarding posting of a bond as redundant.
- Section 6-J (Revisions) – Moved to new Section 7.2.8C (Minor Revisions) and expanded to clarify when the Zoning Administrator can approve a minor revision and what constitutes one. Also requires revised plan sheets to be provided by the applicant and written justification for approval of the minor revision by the Zoning Administrator.
- Section 6-K (Termination and Extension) – This section is deleted as it is referenced in the review process for site development plans (new Section 6.2.2).

ARTICLE 7 – Appeals, Variances, Interpretations, and Modifications

- Section 7-A (Appeals, Variances, Interpretations, and Modifications) – This current section has been divided as follows:
 - Subsections 1-a through m (Board of Zoning Appeals – Organization and Procedures) are moved to new Section 2.2.6 (Board of Zoning Appeals) and edited to match the format of this new section.
 - Subsections 1-n (Hearings – Procedures) is moved to new Section 6.4.1A (General Procedures – Board of Zoning Appeals; Hearings).
 - Subsection o (Appeal of Decision of Board) is moved to new Section 6.4.1B (Appeal of Board of Zoning Appeals Decision).
 - Subsection 2 (Appeals of Administrative Determinations) is moved to new Section 6.4.3 (Appeal) and edited to match the format of this new review process section. Additional edits as follows:
 - Reference to modifications in current Subsection 2-b is deleted as zoning administrator-issued modifications is proposed for deletion. Moved to new Section 6.4.3B-1.
 - Second sentence in current Subsection 2-e is deleted and replaced with reference to the general requirements for public hearings in new Section 2.5 (Public Hearings). Moved to new Section 6.4.3B-2.
 - Subsection 3 (Variances) is moved to new Section 6.4.2 and edited to match the format of this new review process section. Additional edits as follows:
 - Current Subsection c regarding Planning Commission involvement in the review of variance applications is deleted.
 - Reference to modifications in current Subsection 3-e-2-e is deleted as zoning administrator-issued modifications is proposed for deletion. Moved to new Section 6.4.2C-2e.
 - Subsection 4 (Zoning District Map Interpretations) is moved to new Section 6.4.4 (Interpretation of Zoning District Map) and edited to match the format of this new review process section. Second sentence in Subsection 4 is edited to reference the general public hearing section in new Section 2.5.
 - Subsection 5 (Limitations on Powers of Board) is deleted as unnecessary.
- Section 7-B (Modifications) is proposed for deletion.

ARTICLE 8 – Amendments

- This current section combines the review processes for rezoning, conditional zoning, amendment of proffered conditions, and text amendments. These processes are reformatted and moved to the following new sections as separate review processes:
 - Rezoning – new Section 6.3.3
 - Conditional Zoning – new Section 6.3.4
 - Amendment of Proffered Conditions – new Section 6.3.5
 - Text Amendment – new Section 6.3.6
- Subsection B-1-b (Text Amendment) is amended to clarify the list of who can apply for a text amendment by referencing new Section 2.4.2 (Application Filing and Representation by Person or Entity Other than Property Owner).
- Section 8-C-6 (Site Development Plan) is amended to make submission of a site development plan or subdivision plat optional for conditional zoning applications per new Section 6.3.4B-3a.
- Section 8-D-2-d authorizes the Planning Commission to require applicant submission of any such information as it may deem necessary to determine whether the proposed amendment is detrimental to public health, safety, or general welfare. This section is deleted as it is overbroad.
- Section 8-E-2-b is deleted as unnecessary.
 - Subsection 8-E-3 (Criteria for Action on Proposed Amendment) is amended as follows to reference review “factors” that can be considered in addition to any other factors deemed applicable by the approval authority, in considering a rezoning (see new Section 6.3.3D-2) or conditional zoning (see new Section 6.3.4C-1) application:
 - Subsection 3-a – Amended to reference implementing component plans. New 6.3.3D-2a.
 - Subsection 3-b – Deleted as unnecessary.
 - Subsection 3-c – Changed the word “consistent” to “compatible.” New 6.3.3D-2b.
 - Subsection 3-d – Deleted criterion regarding impact to property values as interpretation is very subjective.

- Subsection 3-e -- Clarified that undue adverse impacts on conservation value or impeding operations of an active agricultural or forestal operation will be considered. New Section 6.3.3D-2c.
- Subsection 3-f – Clarified that compliance with Virginia Department of Transportation (VDOT) requirements is required. New Section 6.3.3D-2d.
- Subsection 3-g – Minor edits. New Section 6.3.3D-2e.
- Subsection 3-h – Wording expanded to describe specific rare and irreplaceable natural areas and areas of outstanding natural beauty. New Section 6.3.3D-2f.
- Subsection 3-i – Incorporated wildlife and plant habitats into Section 6.3.3D-2f.
- Subsection 3-j – Minor edits. New Section 6.3.3D-2h.
- Subsection 3-k – Minor edits. New Section 6.3.3D-2i.
- Subsection 3-l – Incorporated undue surface or groundwater pollution into new Section 6.3.3D-2f.
- Subsection 3-m – Deleted as septic system impacts would be addressed by the Virginia Department of Health (VDH).
- Subsection 3-n – Deleted as soil erosion would be addressed through review of an erosion and sediment control plan.
- Subsection 3-o – Deleted as flooding would be addressed through flood plain regulations found in Section 4.2.1 (Flood Plain Overlay District) and through the Virginia Department of Environmental Quality’s (DEQ) review of a stormwater management plan.
- Subsection 3-p – Deleted as DEQ regulates air pollution. Undue odors or fumes are addressed in new Subsection 6.3.3D-2g.
- Subsection 3-q – Moved to new Subsection 6.3.3D-2g with no changes.

ARTICLE 9 – DEFINITIONS

- Most Zoning Ordinance definitions are moved to new Article III (Definitions). Definitions for uses are moved to the specific use section in new Section 5 (Uses). See these sections for specific edits, additions, and deletions.

ARTICLE 10 – Administration Provisions

- Section 10-A (Conflict with Statutes, Local Ordinances, or Regulations) – Moved to new Section 1.3.2 and replaced with a clearer and simplified version.
- Section 10-B (Issuance of Permits and Licenses) – Moved to new Section 2.3 and replaced “licenses” with “approvals.”
- Section 10-C (Violations and Penalties) – Violations moved to new Section 10.2 (Specific Violations) and expanded to include a list of examples of violations. Penalties moved to new Section 10.5 (Remedies and Penalties) and expanded to describe the list of remedies available to correct violations. Current 10-D (Remedies Not Exclusive) is also moved to new Section 10.5.
- Section 10-E (Public Hearings) – This section is moved to new Section 2.5. Current language is replaced with a reference to compliance with Code of Virginia Section 15.2-2204 regarding the conduct of public hearings. Language is also included to note that the Zoning Administrator is responsible for preparing and effecting the public hearing notification including all required mailings and advertisements and posting of notification signage on the subject property.
- Section 10-F (Fees) – This section is moved to new Section 2.6 and is edited to refer to the County’s fee schedule adopted by the Board of Supervisors. Language is added to note that an applicant may also be required to bear the costs of professional services employed to review the application.
- Section 10-H (Repeal of Conflicting Ordinances) – This section is moved to new Section 1.4.1. Reference to the current Zoning Ordinance adoption date of August 14, 1985 is added. Second sentence regarding repeal of all or parts of other ordinances in conflict with this Ordinance is deleted as overbroad.
- Section 10-I (Effective Date) – Moved to new Section 1.1 (Ordinance Authority, Enactment, and Effective Date). Language is added to reference the Code of Virginia authority for adoption of a local zoning ordinance. The effective date of the adoption of the revised Zoning Ordinance will be added when that date is determined.