



ZOAM-2020-0001-Zoning Ordinance Rewrite (ZOR)--

DRAFT TEXT INPUT

Prepared by

Catoctin Creek Scenic River Advisory Committee

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
4.01 General Provisions of Overlay Districts	4.01 Why is there no re-instatement of the River Stream Corridor Overlay District (RSCOD) which was overturned on technicality back in 2004?
4.01 General Provisions of Overlay Districts	4.01 Why is there no overlay district for protection of streams and riparian zone? The 2019 General Plan states that the River and Stream Corridor Resources (RSCR) are only guidance.
4.01 General Provisions of Overlay Districts	4.01 What replaces the current implementation in the R93ZO, is the Scenic Creek Valley Buffer ordinance. 5-1000?
5.03.01 River and Stream Corridor Resources	5.03.01 Where is the overlay district to protect streams? The current 2-page 1993 Scenic Creek Valley Buffer ordinance that has governed development for the past 28 years has been shown by Virginia stream impairments to be inadequate. As a result of uncontrolled land development we have seen significant and ever increasing degradation on stream aquatic life and habitat, both of which are critical to maintaining the scenic beauty of the waterways.
5.03.01 River and Stream Corridor Resources	5.03.01 Where is protection from dam inundation and zoning implementation in the form of a Subdivision ordinance? The Code of Virginia states that a Subdivision ordinance shall include reasonable regulations and provisions which include impact within dam inundation zones. Regulations: Code of Virginia 15.2-2241(A)3 Section 3. "For adequate provisions for drainage and flood control, for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones, and other public purposes, and for light and air, and for identifying soil characteristics;" per https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2241/
5.03.01 River and Stream Corridor Resources	5.03.01 Where is conditional permitting process implemented in cases where the is dam inundation? According to Code of Virginia § 15.2-2295.2. Dam break inundation zones. "A locality may by ordinance require the modification of an application for zoning modification, a conditional use permit, or a special exception for the area of a development that is proposed within a mapped dam break inundation zone." per https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2295.2/
5.03.01 River and Stream Corridor Resources	5.03.01 Where is the public display of a zoning map of dam inundation? The map which must include mapping and protection of properties though puublic display and posting of dam inundation zones as required per Code of Virginia 15.2-2224-2 Section B. "The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. 7. A map of dam break inundation zones."
5.03.01 River and Stream Corridor Resources	5.03.01 Where is the map of groundwater recharge areas? Zoning must include overlay districts and or identification of recharge areas required to ensure continued availability, quality, and sustainability of groundwater and surface water as required by Code of Virginia 15.2-2223(C) 4. "The designation of areas for the implementation of reasonable measures to provide for the continued availability, quality, and sustainability of groundwater and surface water;"

5.03.01 River and Stream Corridor Resources	5.03.01 Can an interactive version of the RSCR map be made available? The scale is such that we are unable to view and assess the various zones.
5.03.01 River and Stream Corridor Resources	Has the county mapped stream benches through all river reaches in the County? If so how? Did this cover the over 1,500 miles of perennial streams? Are these included in the static RSCR map?
5.03.01 River and Stream Corridor Resources	Can the County provide an interactive map showing the River and Stream Resource Management Areas? Using data from County, we have assembled such a map at https://earthward.maps.arcgis.com/apps/mapviewer/index.html?webmap=e4a3f9df98ee4804bb58a2ead1047a57
5.03.01 River and Stream Corridor Resources	Has the County explored the areage impacted by the River and Stream Management Areas? In the Story Map at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4 the acreage is estimated to be about 42,000 acres. This is comparable to the areas defined in River and Stream Cirrodor Overlay District which as rescinded in 2004. The proposed River and stream Resource Management Area is about 4 times larger that the area in the once-proposed Chesapeake Bay Preservation Axct ordinance of aboutr 11,000 acres.
5.03.01.D	5.03.01.D How are bankfull benches defined? We are pleased to see that the ZOR no longer references the undefined and obscure "scar line" definition.
5.03.01.D	5.03.01.D Rather than use bankfull benches, why not just maps from the water's edge? In almost all locations throughout Loudoun, the aggregated width of the River and Stream resource Management Area will be defined backed on floodplain and scenic setback elements. Using bankfull bench only compliocates the definition. It can not reaslistically be mapped countyw-died and impinges on the ability to create a recognized overlay districvt. defined? We are pleased to see that the ZOR no longer references the undefined and obscure "scar line" definition.
5.03.01	5.03.01 How will source water quality be proteced if the quarries that Loudoun Water plans too use for water storage are no included in the reservoir protection area?
5.03.01 River and Stream Corridor Resources	5.03.01 How are are protection in place for water bodies within the "Reservoir Protection Areas? Will there be an overlay District defined to protect these source waters?
5.03.01.E	5.03.01.E. Why is there not a specific overlay district defined that will be protective of the RSCR Management Areas? Why can't the RSCR Management Area as mapped become the RSCR Overlay District and be recognized and named as such?
5.03.01.D	5.03.01.D How the edge of the river defined when identifying the RSCR Management areas? Ara distances measured from the average river edge? Are distances from normal pool elevations of ponds? At what scale are double line streams mapped as single line streams?
5.03.01.D	5.03.01.D Are the Scenic Rivers just those as designated and reconnized by the state per Virginia Scenic Rivers Act of 1970, §10.1-400.?
5.03.01.D	5.03.01.D If additional river reaches are added to the list of state designated Scenic Rivers, how will this be handled? (Scenic River as designated per Virginia Scenic Rivers Act of 1970, §10.1-400)
5.03.01.D	5.03.01.D Why are RSCR Management Areas defined using bankfull benches, when identification of the bench requires detailed on the ground field inspection and is generall used only in discussion of stream restoration protects. There are many. Many reaches in LoudounCounty where identification of bankfull benches are simply non-existent

5.03.01.D	5.03.01.D Why are RSCR Management Areas defined using bankfull benches, when there are many reaches in Loudoun County where identification of bankfull benches are simply impossible.
5.03.01.D	5.03.01.D What is the procedure that will be used to measure bankfull bench of the RSCR Management Areas?
5.03.01.D	5.03.01.D What professional staff qualifications are required to make bankfull bench determinations? Would a person need to have licenses for PE, PG, Certified Wetlands delineator?
5.03.01.E	5.03.01.E Modification of the Outermost Required Buffer. What constitute modification? Does this include: tree removal, tree planting, removal of invasive species, dredging, floodplain reconnection or fence construction?
5.03.01.E.4.b	5.03.01.E.4.b What is a principal permitted use? Seems like the back reference would allow a single family home, driveway, shed and other structure. This seems to be a major loophole and is not protective of the RSCR Management Area.
5.03.01.D.3	5.03.01.D.3 How are streams defined? Is this all streams including perennial, intermittent and non-perennial? Does this include all "drain" lines at 1:2,400 scale per county basemap GIS? Are streams defined based on outdated USGS "blue lines" Will perenniality be addressed in defining streams, and if so, what protocol will be used to define perenniality? Will the Fairfax County Perenniality method be adopted?
5.03.01.H	5.03.01.H How can the County prohibit permanent or temporary diversion of any Scenic River when the Code of Virginia required authorization by the Virginia General Assembly votes per Code of Virginia - Title 10.1. Conservation » Subtitle I. Activities Administered by the Department of Conservation and Recreation » Chapter 4. Scenic Rivers Act » § 10.1-407.
5.03.01.H	5.03.01.H Can the River and Stream Resource be extended to include headwater streams? For example, the Chesapeake Bay Preservation Act uses a 50-ft buffer around all "perennial streams". In Loudoun County, the cutoff for minor floodplain is 100 acres in defining the floodplain overlay district. However, perennial stream generally extend further into the watershed to drainage areas below 100 acres. The definition of the River and stream resource management areas should be extended to include a 50-ft buffer around perennial streams in drainage areas less than 100 acres. Note that Fairfax County protects all perennial streams.
5.03.01.D.3	5.03.01.D.3 Why is there a 450 foot break in RSCR in PIN 216495854000 north of Lovettsville Rd as there should be a 100-foot buffer on each side of the stream
5.03.01 River and Stream Corridor Resources	5.03.01 Why is the same cyan color used for both water bodies and flood plain? This makes readability of the RSCR Management area difficult to assess, specifically PIN 114256156000.
5.03.01 River and Stream Corridor Resources	5.03.01 Why are stream centerlines hidden by the floodplain component of the RSCR Management Areas? Without the stream centerline it is more difficult to view the RSCR Management Area.
5.03.01 River and Stream Corridor Resources	5.03.01 Why are inline ponds not buffered and included in the RSCR Management area such as in PIN 267363686000? 40755 CARPER LN
5.03.01 River and Stream Corridor Resources	5.03.01 Why are the trees in the cross section drawn such that base of tree is below ground surface? The display is a cross section, not a perspective diagram.

5.03.01 River and Stream Corridor Resources	5.03.01 Why is there no buffer around the Beaverdam Reservoir in defining the RSCR Management Area?																								
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5.03.01 River and Stream Corridor Resources	5.03.01 Why is there no mention of Landfill Water Supply District Overlay? Please consider re-establishing this District.																								
5.03.01 River and Stream Corridor Resources	5.03.01 Please provide a calculation of the number of miles of perennial streams and total length of streams within 100-yr floodplain down to drainage area of 100 acres																								
5.03.01 River and Stream Corridor Resources	5.03.01 How does the number of stream miles (i.e., the extent of applicability) in the RSCR compare with the Chesapeake Bay Preservation Act which is protective of all perennial streams?																								
5.03.01 River and Stream Corridor Resources	5.03.01 How will the new RSCR interface with the legacy Town of Leesburg Creek Valley Buffer ordinance, specifically along Tuscorara Creek which is split along town boundaries? https://www.leesburgva.gov/home/showdocument?id=4536																								
5.03.01 River and Stream Corridor Resources	5.03.01 Can the 156 Points of Perenniality as identified in the Loudoun County 2009 Stream Assessment be used to support creation of a field verified map of perennial streams? The report at https://www.loudoun.gov/DocumentCenter/View/5091/Stream-Assessment--Results-Report only covered a portion of the County.																								
5.03.01 River and Stream Corridor Resources	<p>5.03.01 What is the estimated the total stream miles in Loudoun County are subject to RSCR? How does this compare to other stream miles such as:</p> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th></th> <th>Perennial</th> <th>Intermittent</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>USGS NHD High Resolution (24K)</td> <td>485</td> <td>793</td> <td>1,277</td> </tr> <tr> <td>USGS NHD Medium Resolution (100K)</td> <td>456</td> <td>264</td> <td>721</td> </tr> <tr> <td>Historic Soil Drains (2,400 scale)</td> <td>952</td> <td>4,791</td> <td>5,743</td> </tr> <tr> <td>Perennial drains (CBPO) in 2009</td> <td>1,000</td> <td></td> <td></td> </tr> <tr> <td>Estimate from field perenniality (2009)</td> <td>1,500 (not mapped)</td> <td></td> <td></td> </tr> </tbody> </table>		Perennial	Intermittent	Total	USGS NHD High Resolution (24K)	485	793	1,277	USGS NHD Medium Resolution (100K)	456	264	721	Historic Soil Drains (2,400 scale)	952	4,791	5,743	Perennial drains (CBPO) in 2009	1,000			Estimate from field perenniality (2009)	1,500 (not mapped)		
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5.03.01 River and Stream Corridor Resources	5.03.01 From CWMP 2008: At a minimum, reduce requirements to establish stream buffer from watersheds greater than 640 acres to include all perennial streams. (This recommendation could be achieved with approval and implementation of one of the stream buffer ordinances [Chesapeake Bay Act or RSCOD] currently being considered by the Board.) (From CWMP report item # 23.)																								
5.03.01 River and Stream Corridor Resources	5.03.01 Please discuss and compare areas in RSCOD (2004) and RSCR Management Areas (Draft 2022). Using GIS files supplied by Loudoun County Office of Mapping the maps may be viewed at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4																								