

Ordinance / Section / Item	Issue & Topic	Comments & Recommendations
<u>Overall Items</u>		
<p>IDA - Intensely Developed Areas, Economic Development</p>	<p>Much of the land in Loudoun County that will provide future economic development is already zoned and planned for. The RPA and buffer areas proposed by this Ordinance may greatly impact property planned for economic development. These economic development issues were addressed by the State by creating provisions in the Chesapeake Bay Act to allow the creation of Intensely Developed Areas (IDA) to encourage the concentration of growth in commercial areas planned for economic development.</p>	<p>Loudoun County should recognize the importance of economic development by allowing reduced buffers in the Route 28 Tax District and all other areas targeted for economic development.. This would be a strong pro-economic development message that would allow the preservation of the desired environmentally sensitive areas while still preserving areas for planned economic development. This could reduce the impact on economic development, lessen the fiscal impacts on the County, and also provide the mechanism to continue to protect properties in the Route 28 Tax District.</p>
<p>Flexibility</p>	<p>Loudoun County should use their flexibility to adopt portions or elements of the Chesapeake Bay Preservation Act. The County should use this ability to tailor the adopted ordinances to the needs of Loudoun County. Many other mandated jurisdictions modified their ordinances; yet Loudoun County is in effect being held to a higher standard - yet is the only jurisdiction voluntarily opting in. This makes no sense.</p>	<p>Loudoun County is not required to adopt a Chesapeake Bay Preservation Ordinance and as such, Loudoun County is voluntarily choosing to adopt an Ordinance. Furthermore, the Chesapeake Bay Preservation Act was initially structured to allow all 84 local governments to tailor fit an ordinance to meet their local needs and have the Chesapeake Bay Local Assistance Board (CBLAB) determine if they are consistent with the regulations. We strongly encourage Loudoun County to make changes to the proposed Ordinances to allow creative, flexible and efficient requirements; that do not create fiscal burdens or adversely affect the citizens and businesses of Loudoun County.</p>
<p>Grandfathering</p>	<p>Grandfathering is an absolute must when implementing new or revised ordinances and regulations.</p>	<p>The grandfathering provisions currently proposed need continued refining. Grandfathering should allow certain applications that have advanced through the review or approval process to continue. Currently there remains needed wording improvements that recognizes all applications do not need to be subject to providing RPA designations and a subjective review to see if the original development proposal should be modified. After multiple plans, multiple application review, and significant expense - these developments should be able to proceed and not be subject to the subjective review requesting adherence to the regulations "to the greatest extent possible".</p>
<p>Fiscal Impact &amp; Responsibility</p>	<p>There are several areas where the government review and approval of additional plans and data is being proposed. This will have a great cost and inconvenience on the citizens and businesses of the County.</p>	<p>Recognizing the significant budget constraints the County is under and recognizing the significant financial difficulties most citizens and businesses are experiencing; a very sharp eye needs to be given to assure unnecessary plans and government review is eliminated and the review and approvals coincide with the appropriate needs. It is our opinion these new regulations will greatly increase costs on the private sector and will significantly increase the size of government. Given the existing RSCOD policies to protect water resources, these additional costs and reviews are unnecessary.</p>
<p>Mapping</p>	<p>The County's initial GIS mapping appears to be grossly understated. Connected wetlands are not shown. Known perennial streams are also not shown. The RPA as shown in the GIS system appears to only show the 100 foot buffer from certain major streams. Countywide, this appears to show a much smaller impacted area.</p>	<p>There will be significant areas in existing subdivisions where RPA will interfere with typical homeowner activities and yard use. Property owners should be made aware the size of the RPA as currently mapped is grossly understated and could have a much larger impact on their individual properties.</p>

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<u>General Plan</u>		
River and Stream Corridor Policies – Paragraph A, Policy Number 4 (page 14 of 72 of Redline dated 4.30.10)	Conflict exists between Ches Bay Preservation Ordinance and proposed River and Stream Corridor Policies.	Policy 4 indicates that all "river and stream corridors," (defined in Policy 2 as any stream and any wetland) will be governed by CBPO. This is in conflict with the CBPO, which indicates that only perennial streams and connected wetlands will be governed thereunder.
River and Stream Corridor Policies – Paragraph A, Number 2.e.	Riparian Area should be more clearly defined in the Glossary at page 71 of 72.	The boundaries of a "Riparian Area" should be more clearly defined, since its boundaries determine how one interprets Policy 2.f. (per 2.f., any "steep slope" or other feature located in a "riparian area" is subject to the Policies.), Policy 3 (the County will regulate corridor resources, including Riparian Areas.), and other policies.
River and Stream Corridor Policies – item 2(f) (page 13 of 72 of Redline dated 4.30.10)	The term "Steep Slopes" occurs throughout the RGP and is not defined in the Glossary. Because the definition for "steep slopes" in the Zoning Ordinance conflicts with the definition in the RGP, the term used in the RGP should be defined not only in Policy 2.f., but also in the Glossary.	The term should be defined in the Glossary as it is defined on this page, as "slopes greater than 25%." This is particularly needed because a different definition for "steep slopes" exists in the Zoning Ordinance and therefore there is the potential for confusion. In its previous response to this recommendation, Staff indicated that defining "steep slopes" was outside the scope of the CBPO. However, staff does define the term in Policy 2.f. The definition would be more accessible if located in the Glossary.
Plant and Wildlife Habitats Policies – number 8 (page 30 of 72)	The removal of all invasive vegetation is an unreasonable burden.	If this policy is retained, then the land area to which this policy applies should be clarified -- does it apply only in the RPA? How would a Proffer to remove invasive alien vegetation be implemented and overseen? Will applicants be required to submit studies identifying and mapping all invasive alien vegetation?
<u>Codified Ordinances - Chesapeake Bay Act - Chapter 1222</u>		
Stormwater Management Facilities	Chapter 1222 allows stormwater management in the RPA; but the current floodplain overlay district in the Zoning Ordinance does not. This creates a situation where one Ordinance doesn't allow the same features of the other Ordinance, in the same locations on a property.	We recommend that the Zoning Ordinance floodplain overlay district be revised to allow stormwater management facilities. Specific performance standards could be created to allow these facilities in certain appropriate locations and under certain situations.
1222.05 (e)	To reflect actual practice, we suggest the following wording change.	..... or combination of practices that are the most an effective and practical means of .....
1222.05 (n)	The proposed definition of "plan of development" results in the same level of RPA analysis being required for conceptual and preliminary plans, as final development plans. Because the RPA must be identified in a highly precise manner, preliminary and conceptual plans of development should be allowed to provide a less detailed analysis than the full RPA delineation. Loudoun County has always recognized that preliminary or conceptual plans and minor areas of proposed construction can require less detail; thus allowing the plan review and approval process to increase in the level of detail required closer to actual construction. This approach has been used many times, including the timing when an actual Wetlands Jurisdictional Determination is needed.	We recommend that similar logic should be used for when an RPA delineation is required as that spelled out in FSM Chapter 7 concerning the timing associated with including wetland data for plan review. Specifically rezoning concept plans and preliminary plats of subdivision should be allowed to show the RPA from the County mapping data and not need a detailed delineation. To require actual field verifications and a wetland jurisdictional determination is excessive and unnecessary for these two plans. For rezonings and preliminary subdivisions, wording similar to the following could be used: Show the boundaries of the Resource Protection Area as depicted on the adopted Chesapeake Bay Preservation Map or an approved RPA delineation

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1222.05 (q)	We suggest the following revised definition.	<u>"Redevelopment" means the substantial alteration, rehabilitation, or rebuilding of a property for residential, commercial, industrial, or other purposes where there is no net increase in impervious area by the proposed redevelopment within an RPA and no more than a net increase in impervious area within an RMA of 20% relative to conditions prior to redevelopment, or any construction, rehabilitation, rebuilding, or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility uses, facilities or structures within an IDA.</u>
1222.05 (w) & various other places in: Chapter 1222, FSM Chapters 7 & 8	With reference to the requirements for a site-specific evaluation, we suggest that a general rule be established by defining a "Loudoun County RPA Stream" instead of needing site specific reviews. The cost associated with the County staff time and the individual consultant's time, creates excessive costs that should be avoided. Recognizing the significant budget constraints the County is under; a very sharp eye needs to be given to assure unnecessary government review is eliminated and the review and approvals coincide with the need. We believe there are no scientific or ecological reasons that a specific size of stream designation would not create the same environmental rewards.	We recommend that a drainage area of 50 acres be used instead of requiring individual evaluations at the associated excessive staff time needed to verify each evaluation.
1222.05(x)	The definition of "water dependent facility" includes uses that should be considered exempt under the Ordinance.	We recommend adding to (vi) <u>outfall structures of storm drains and sewers</u> and (vii) <u>stream and wetland restoration and mitigation projects</u> as exempt uses, and delete them from the definition of "water dependent facility".
1222.07 (d)	We support the inclusion of the RPA in the land area calculation, for the purpose of calculating density. However, in order to give this provision real effect, there should be flexibility in the Zoning Ordinance regarding minimum lot size, minimum setbacks and yards, and maximum heights. A real problem arises when RPA runs through the middle of a property, leaving insufficient developable space on either side of the RPA.	We recommend additional amendments to the Zoning Ordinance to address this issue.
1222.08 (b)	This is not consistent with our suggested revised definition.	If the definition of RPA changes, this should be updated.
1222.11 (d)	Private roads and driveways should be added to the list of exempt uses. We suggest the following change.	..... transmission lines, railroads <del>and</del> <u>public and private roads, and private driveways</u> and their appurtenant structures .....
1222.11 (e)	We suggest the following change.	..... operation, and maintenance of water line <u>and connections to water wells and septic fields,</u> sanitary sewer lines <u>and laterals</u> including pump stations, <u>storm drains and storm sewers and their outfall structures,</u> natural gas lines, underground .....
1222.11 (f)	We recommend adding this new item.	<u>The construction, installation, operation, and maintenance of wetland restoration, wetland mitigation, stream restoration, and stream stabilization.</u>
1222.12 (b)	We made a recommendation above concerning the definition of Redevelopment (1222.05 (q)).	This section should be revised per that suggested definition.

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1222.12 (c)	We made a recommendation above to include public and private roads, and private driveways, and the appurtenant structures as an exempt use (1222.11 (d)).	If these roads are an exempt use, this section can be eliminated.
1222.14 (a)	This is a very subjective requirement. As long as the existing amount of ground cover is maintained, the re-planting of the RPA should not be necessary.	This section should be modified to create more certainty that if the existing vegetation is maintained, it is adequate.
1222.14 (e)	This is an unreasonable requirement. As long as the existing amount of ground cover is maintained, the planting of the entire RPA is unreasonable.	This section should be removed.
1222.16 (c)	Establishing a yard from the meandering RPA will be difficult and a computational nightmare to verify. More importantly, by including this, the County is in effect creating a buffer to the RPA buffer. There is no need to buffer the buffer.	We recommend an RPA setback of 10 feet be provided from the RPA to the principle residential structure.
1222.17 (a) (vi)	Does this overlap with the requirement of 1222.17 (a) (i) ?	This section should be removed.
1222.19	This entire section refers to Buffer Area. The provisions should be extended to the RPA.	Replace the words Buffer Area with RPA
1222.19 (a) vi	This section applies to individual families who own a lot. To reduce the cost impact on the home construction of such lots, we recommend the WQIA (item iii) be eliminated.	We recommend item (a) vi be eliminated
1222.19 (c)	When a commercial lot loses buildable area as a result of the RPA, then the required parking for the commercial use should also be subject to the waiver provisions of 1222.19. It is of no use to grant a waiver for the principal structure, but not for the required parking.	We recommend item (c) be eliminated
1222.20 (a)	Much of this section would create unnecessary burden on existing homeowners. There will be significant areas in existing subdivisions where RPA will interfere with typical homeowner activities and yard use. Changes must be made to minimize the impact on existing homeowner's property. We recommend the following changes.	delete: 1222.20 (a) i (b); 1222.20 (a) i (c); 1222.20 (a) iii; 1222.20 (c); 1222.20 (d); and In 1222.20 (b), remove the phrase <del>that are attached to the principal structure</del> and add <u>including gazebos, sheds, parking areas, pools, patios, retaining walls, and terraces</u>
1222.21	There is an overly broad discretion vested in the Administrator when the criteria specified has been met. We suggest the following change.	The Administrator <del>may</del> <u>shall</u> waive the Performance Criteria .....
<b>Codified Ordinances - Chapter 1220</b>		

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Chapter 1220.05 (x) & 1220.06 (c)	Several years ago Loudoun County found itself having grading permit compliance issues with the State. One of the things done to resolve this issue was the County added to this Code section the element now being proposed for removal <i>or agreement in lieu of a plan</i> . This one statement went a long way towards the County and State reaching a very positive agreement on the handling of grading permit approvals. It is also an efficient tool that the applicant can utilize rather than having to always prepare a plan.	We think the County and State found a very reasonable solution that balances appropriate timing of plan review in conjunction with effective use of staff and government review. We do not think this very important wording should be removed.
<u>Zoning Ordinance</u>		
Article 1-205 M (2)  Article 8 Definitions – All of the various Yards	Establishing a yard from the meandering RPA will be difficult and a computational nightmare to verify. More importantly, by including this, the County is in effect creating a buffer to the RPA buffer. There is no need to buffer the buffer.	We recommend an RPA setback of 10 feet be provided from the RPA to the principle residential structure.
Stormwater Management Facilities	Chapter 1222 allows stormwater management in the RPA; but the current floodplain overlay district in the Zoning Ordinance does not. This creates a situation where one Ordinance doesn't allow the same features of the other Ordinance, in the same locations on a property.	We recommend that the Zoning Ordinance floodplain overlay district be revised to allow stormwater management facilities. Specific performance standards could be created to allow these facilities in certain appropriate locations and under certain situations.
<u>Facilities Standards Manual - Chapter 7</u>		
7.500 & various other places in: Chapter 1222, FSM Chapters 7 & 8	With reference to the requirements for a site-specific evaluation, we suggest that a general rule be established by defining a "Loudoun County RPA Stream" instead of needing site specific reviews. The cost associated with the County staff time and the individual consultant's time, creates excessive costs that should be avoided. Recognizing the significant budget constraints the County is under; a very sharp eye needs to be given to assure unnecessary government review is eliminated and the review and approvals coincide with the need. We believe there are no scientific or ecological reasons that a specific size of stream designation would not create the same environmental rewards.	We recommend that a drainage area of 50 acres be used instead of requiring individual evaluations and the associated excessive staff time needed to verify each evaluation.
7.500 & various other places in: Chapter 1222, FSM Chapters 7 & 8	With reference to Plans of Development and when an RPA delineation must be submitted; Loudoun County has always recognized that preliminary or conceptual plans and minor areas of proposed construction can require less detail; thus allowing the plan review and approval process to increase in the level of detail required closer to actual construction. This approach has been used many times, including the timing when an actual Wetlands Jurisdictional Determination is needed.	We recommend that similar logic should be used for when an RPA delineation is required as that spelled out in FSM Chapter 7 concerning the timing associated with including wetland data for plan review. Specifically rezoning concept plans and preliminary plats of subdivision should be allowed to show the RPA from the County mapping data and not need a detailed delineation. To require actual field verifications and a wetland jurisdictional determination is excessive and unnecessary for these two plans. For rezonings and preliminary subdivisions, wording similar to the following could be used: Show the boundaries of the Resource Protection Area as depicted on the adopted Chesapeake Bay Preservation Map or an approved RPA delineation
7.501.A.2.b	The Tree Cover Inventory appears to be required for the entire RPA when a Major WQIA is prepared	We recommend the following wording change: ..... quality, and history) of all tree cover types present within the <u>proposed area of disturbance, within the RPA</u> , and shall identify .....

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<b>Facilities Standards Manual - Chapter 8</b>		
Overall	This chapter deals with overall plat and plan content. As such, there does not seem to be the process to submit an RPA delineation for approval, separate of an actual land development application.	Can a property owner or applicant submit an RPA delineation for approval separate of a plan of development?
8.102.A.41 8.103.A.40 8.103.8.A.15 8.106.A.41 8.109.B.4 8.111.8	The details associated with an application for RPA approval do not need to also be shown on subsequent plan applications. It is redundant, expensive, and unnecessary to show this data multiple times. Showing only the approve RPA line is all that is necessary. The specific plan requirements for showing specific features is adequate.	The following information should be removed: <del>.....the location of certain features of the RPA (the Ordinary High Water Mark (OHWM) of perennial water bodies, connected wetlands, where applicable, and the Buffer Area .....</del> The specific plan requirements for showing specific features is adequate.