

**ORDINANCE NO 13-01**

**Introduced by: Perry A. Stutman, President**

**February 12, 2013**

**AN ORDINANCE OF THE TOWN OF QUEENSTOWN AMENDING SECTION 39 OF THE QUEENSTOWN ZONING CHAPTER TO REVISE THE CRITICAL AREA BUFFER PROVISIONS AND AMENDING THE PERMISSIBLE TABLE OF USES IN SECTION 58 TO INCLUDE A RESIDENTIAL USE FOR THE COUNTRYSIDE ZONE**

WHEREAS, the Commissioners of Queenstown are authorized by the Maryland Code Annotated, Article 23A, §2(b)(30) to provide reasonable zoning regulations; and

WHEREAS, on November 27, 2012, the Commissioners of Oxford adopted a revised zoning ordinance subject to the review and approval of the Critical Area Commission; and

WHEREAS, on February 6, 2013, the Critical Area Commission reviewed and approved the Oxford Zoning Ordinance contingent upon the Town revising the Ordinance to incorporate recently revised updates to the Critical Area Buffer regulations; and

WHEREAS, the Commissioners of Queenstown have determined that it is desirable and in the public interest to revise Sections 35 and 58 of the Queenstown Zoning Chapter to incorporate revised Critical Area Buffer regulations and to add a single-family detached residential use to the Countryside Zone in the Table of Permissible Uses.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS OF QUEENSTOWN AS FOLLOWS:

**SECTION 1.** The Town of Queenstown hereby amends Section 39 of the Queenstown Zoning Chapter as follows:

**§ 39. The 100-Foot Buffer.**

A. Applicability and Delineation

An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this part. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:

1. The minimum 100-foot Buffer is delineated, **based on existing field conditions**, landward from:

a. The mean high water line of tidal water;

- b. The edge of each bank of a tributary stream; and
  - c. The ~~upland~~ **landward** boundary of a tidal wetland.
2. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in §A1 above and the minimum 200-foot Buffer as described in §A3 below, to include the following contiguous land features:
- a. A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;
  - b. A nontidal wetland to the upland boundary of the nontidal wetland;
  - c. The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01;
  - d. For an area of hydric soils or highly erodible soils, the lesser of:
    - (1) The landward edge of the hydric or highly erodible soils; or
    - (2) Three hundred feet where the 300 foot expansion area includes the minimum 100-foot Buffer.
3. Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:
- a. An expanded Buffer in accordance with §A(2) above; or
  - b. A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.
4. The provisions of §A(3) above do not apply if:
- a. The application for subdivision or site plan approval was submitted before July 1, 2008, and were legally recorded (subdivisions) or received final site plan approval (site plans), by July 1, 2010;
  - b. The application involves the use of growth allocation.

B. Permitted activities.

If approved by the Town, **in conjunction with an approved Buffer management plan**, disturbance to the Buffer is permitted for the following activities only

1. A new development or redevelopment activity associated with a water-dependent facility ~~or located in an approved Buffer Management Area~~; or
2. A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Chapter;
3. A development or redevelopment activity approved in accordance with the variance provisions of this Chapter;
4. A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010 where:
  - (a) The Buffer is expanded for highly erodible soil on a slope less than 15 percent or is expanded for a hydric soil and the expanded Buffer occupies at least 75% of the lot or parcel;
  - (b) The development or redevelopment is located in the expanded portion of the Buffer and not within the 100-foot Buffer; and
  - (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.
5. The installation or replacement of septic systems on a lot created before January 17, 1989 where:
  - (a) The Health Department has determined that the Buffer is the only available location for the septic system; and
  - (b) Mitigation is provided at a ratio of 1:1 for the area of canopy cleared of any forest or developed woodland.

C. Buffer establishment in vegetation.

An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the Buffer, but is located on a riparian lot or parcel that includes the minimum 100-foot Buffer, shall establish the Buffer in vegetation if the Buffer is not fully forested or fully established in woody or wetland vegetation. A Buffer Management Plan in accordance with the standards of §F is required.

1. The provisions of this section apply to:
  - a. Approval of a subdivision;
  - b. A lot or parcel that is converted from one land use to another;

- c. Development or redevelopment on a lot or parcel created before January 1, 2010.
- 2. The provisions of this section do not apply to the in-kind replacement of a principal structure.
- 3. If a Buffer is not fully forested or fully established in woody or wetland vegetation, the Buffer shall be established ~~through planting~~ in accordance with COMAR 27.01.09.01-1.

D. Mitigation for impacts to the Buffer.

An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this section.

- 1. Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, and special exception, septic system approved by the Health Department on a lot created before January 17, 1989.
- ~~2. All authorized development activities shall be mitigated for the area of disturbance in the Buffer based on the following type:~~
  - ~~a. 1:1 for shore erosion control projects;~~
  - ~~b. 2:1 for riparian water access;~~
  - ~~e. 2:1 for development or redevelopment of water dependent utilities;~~
  - ~~d. 2:1 for public roads, bridges & utilities; and~~
  - ~~e. 3:1 for any development activity authorized by variance.~~
  - ~~(f) 1:1 for a septic system in a forest or developed woodland on a lot created before January 17, 1989 if clearing is required.~~
  - ~~(g) 0 for a septic system on a lot created before January 17, 1989 if located in existing grass or if no clearing is required.~~
- 2. **All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2.**

3. All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.
4. Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, the Town may permit planting in the following order of priority:
  - a. On-site and adjacent to the Buffer; ~~and~~
  - b. On-site elsewhere in the Critical Area; ~~and~~
  - c. **Fee-in-lieu in accordance with COMAR 27.01.09.01-5.**

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F. Required Submittal of Buffer Management Plans.

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4. The Town will not approve a Buffer Management Plan unless:
  - a. The plan clearly indicates that all planting standards under §E will be met; and
  - b. Appropriate measures are in place for the ~~long-term~~ protection and maintenance of all Buffer areas.

**SECTION 2.** The Town of Queenstown hereby amends Section 58 of the Queenstown Zoning Chapter as follows:

RESIDENTIAL	R-1	R-2	TC	HC	RC	I	QRD	CS
Single-family detached	P	P	P					<b>P</b>

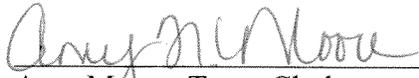
**SECTION 3.** All other sections of the Queenstown Zoning Chapter shall remain as previously adopted.

**SECTION 4.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Commissioners of Queenstown hereby declare that they would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

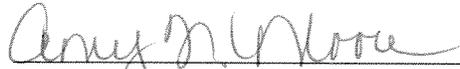
ORDAINED, APPROVED, AND PASSED by the Town Commissioners for the Town of Queenstown on this 12<sup>th</sup> day of March, 2013.

WITNESS:

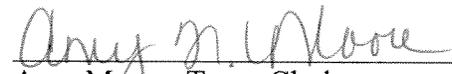
TOWN COMMISSIONERS FOR THE TOWN OF QUEENSTOWN:

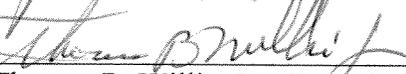
  
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Amy Moore, Town Clerk

  
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Perry A. Stutman, President

  
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Amy Moore, Town Clerk

  
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John M. Bowell, Commissioner

  
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Amy Moore, Town Clerk

  
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Thomas B. Willis, Jr., Commissioner

Additions are indicated in **bold**  
Deletions are indicated as ~~strikethroughs~~