

ORDINANCE NO. 12-12

INTRODUCED BY: Perry A. Stutman, President

AN ORDINANCE OF THE TOWN OF QUEENSTOWN REPEALING IN ITS ENTIRETY AND REENACTING THE QUEENSTOWN ROAD STANDARDS

WHEREAS, under the authority established by Md. Code Ann. Article 23A, Section 2 and pursuant to Section 19-58 of the Queenstown Town Charter, the Town of Queenstown is authorized to regulate all streets, avenues, roads, highways, public thoroughfares, lanes and alleys within the municipal boundaries of the Town; and

WHEREAS, the Town desires to adopt an ordinance establishing revised road standard regulations governing and relating to the roads and bridges of the Town; and

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

SECTION 1. BE IT ENACTED BY THE QUEENSTOWN COMMISSIONERS that all previous road standards of the Town of Queenstown are hereby repealed and the following is enacted as the Queenstown Road Standards:

Section 1. Title.

This Chapter shall be known and may be cited as the “Queenstown Roads Ordinance.”

Section 2. Applicability; Relation to Existing Zoning and Subdivision Regulations; Interpretation and Application.

A. Unless otherwise stated, this Chapter applies to all public roads, roadways and bridges within the Town, except those owned or controlled by the State of Maryland, and to all property rights, easements, appurtenances, rights-of-way, permits, approvals, and licenses associated with public ways.

B. This Chapter is intended to supplement and be applied to implement the provisions of the (i) Town Zoning Ordinance, (ii) Town Subdivision Regulations and (iii) The Town Code.

Section 3. Definitions.

In this Chapter, the following words have the meanings indicated:

“**Access**” – A location along a Town roadway planned, designed, or used to enter or exit a Town roadway from a highway, street, road, roadway, alley, lane, thoroughfare, right-of-way, easement, driveway, or field. “Access” includes the right to use such a location.

“Access Permit” – A written license issued by a designee of Queenstown pursuant to procedures and criteria established by this Chapter.

“Agricultural Access” – Ingress or egress of farm equipment to or from a Town roadway for agricultural land management activities.

“Bridge” – A traffic-bearing structure within a roadway, spanning a waterway, drainageway, depression, or obstruction, that requires periodic documented and certified inspection and condition survey under provisions of the Maryland State Highway Administration and the Federal Highway Administration.

“County” – means Queen Anne’s County, Maryland.

“Developer” – means a person who engages in development.

“Development” – Any activity other than farming, gardening or yard maintenance that results in a change or intensification of land use or improvement of property, with new or modified structures.

“Easement” – A right of use or enjoyment of land of another.

“Entrance” – An access for residential, commercial, industrial, or institutional use.

“Design Manual” – The Queen Anne’s County Department of Public Works Roads Design and Construction Standards Manual as amended from time to time.

“Outfall” – Any area containing a natural or constructed drainageway, receiving and transporting storm runoff from a roadway.

“Person” – An individual, corporation, municipal corporation, partnership, association, and any other entity recognized as having legal existence.

“Private or Privately Owned” – Refers to a roadway, bridge, lane, driveway, right-of-way, easement, or accessway, that is not owned, deeded to, controlled, or maintained by the Town, the County, or the State, and is not generally accessible to the public, or is restricted from use by the general public.

“Property” – Any real or personal property, including any interest therein.

“Public or Publicly Owned” – Refers to a roadway, bridge, right-of-way, or easement, that is owned, deeded to, controlled, or maintained by the Town, and funded by public revenues.

“Road” – The traffic-bearing pavement, or driving surface, and associated base course, constructed and maintained within a roadway.

“Roadway” – The land area comprising the entire width and length of any right-of-way or easement containing a road, including traffic surfaces, intersections, entrances, cul-de-sac, turnarounds, accesses, parking areas, public landings, should areas, drainage ditches and structures, utilities and utility reservation areas, maintenance areas, plantings, vehicle clearances, and any other structures, signage or appurtenances needed for the safe and beneficial use of the roadway.

“SHA” – The Maryland State Highway Administration, an agency of the Maryland Department of Transportation.

“State” – The State of Maryland.

“Storm Runoff, Stormwater Runoff, or Runoff” – Surface water generated by precipitation that moves on grade to a point of discharge, or an outfall, or a body of water.

“Town” – “The Town of Queenstown”, a Maryland municipal corporation.

“Town Bridge” – A bridge that is owned, controlled, or maintained by the Town, funded by public revenues, and accessible for use by and for the benefit of the general public.

“Town Road or Town Roadway” – A road or roadway that is owned, controlled, or maintained by the Town and accessible for use by and for the benefit of the general public. All public roads or roadways located within the Town, except those owned or controlled by the SHA, shall be Town roads or Town roadways.

“Traffic” – Any class or volume of vehicles for which a roadway is accessible.

“Upgrade” – A physical roadway or bridge improvement within existing or expanded rights-of-way, as approved according to the requirements of this Chapter.

Section 4. Authority to adopt ordinances and regulations.

The Commissioners of Queenstown are authorized to adopt and amend ordinances or regulations to govern all aspects of Town roadways and bridges, including any right or franchise therein. The Commissioners of Queenstown are authorized to establish fines and penalties for violation thereof, and to enact laws providing appropriate administrative and judicial proceedings, remedies, civil penalties, and other sanctions for enforcement.

A. Conflicting laws. Subject to Section 4(B), whenever any provision of this Chapter conflicts with any other provision of law covering the same subject matter, whether set forth in this Chapter or elsewhere, that provision which is more restrictive or imposes the higher standard or requirement, as determined by the Planning Commission, shall govern.

B. Equitable remedies. The Town may enforce this Chapter by injunctive and other appropriate equitable relief in addition to other available remedies. All such remedies are

cumulative and the Town may elect to pursue any or all of them, from time to time, as permitted by law.

Section 5. Design Manual.

A. Design Manual. The Commissioners hereby adopt the Queen Anne's County Department of Public Works Roads Design and Construction Manual as amended from time to time as the design manual of the Town of Queenstown. The Design Manual shall establish the technical design, performance, construction, material, and other standards for Town roadways and bridges.

B. Non-Technical Standards. The provisions in the Design Manual unrelated to technical specifications including, but not limited to, fees and security, inspections, fees, and performance sureties, are not adopted by the Commissioners of Queenstown and this Chapter shall apply.

Section 6. Control.

A. General. A designee of Queenstown shall administer and enforce this Chapter and any regulations now or hereafter adopted. The Town's designee shall have incidental authority to perform, authorize, and delegate such acts as are necessary or proper for these purposes.

B. Acceptance of Alternatives. The Planning Commission may consider and accept a design that deviates from the prescribed standards of the Design Manual.

C. Title. Town roadways and bridges shall be held by and in the name of Town of Queenstown, Maryland.

D. Location. To establish the proper location or width of a Town roadway or bridge, the Town may cause the same to be surveyed and a description and plat made and recorded among the land records of Queen Anne's County, Maryland. The description and plat shall be made by reference to the original description of the roadway or bridge when it was acquired. If the original description cannot be found, the description and plat shall be made of the roadway or bridge as existing. Upon recordation, the description and plat shall be the official legal description of the roadway or bridge and the Town and Courts shall consider it prima facie correct unless the contrary is proven.

Section 7. Property acquisition.

The Town may acquire property for public use in connection with Town roadways and bridges by purchase, dedication, implied or express, eminent domain or any other power or method permitted by State law. Specifically, the Town, by resolution adopted by the Commissioners of Queenstown, may (i) accept any offer of dedication of property from the United States, the State, the County, or any person, or (ii) authorize acquisition of property for public use through condemnation under the power of eminent domain.

Section 8. Fees.

Payment of all scheduled fees established by the Commissioners of Queenstown shall be a condition of any review, approval, or permit issued under this Chapter. In addition to scheduled fees, a developer or applicant shall pay all other costs incurred in connection with development reviews, including any professional, legal, or other services for studies, analyses, reviews, design, construction, or inspections. The Town may assess fees for specialized use of the Town roadways in accordance with the provisions of this Chapter except that normal agricultural operations shall be exempt from such special use fees.

Section 9. Permit required.

A. General requirements. Except in accordance with a permit obtained from an authorized town official or agency, a person may not:

1. Make an opening in any Town roadway or bridge;
2. Place any structure, utility line, or equipment within any Town roadway or on any bridge;
3. Change or renew any structure, utility line, or equipment placed within any Town roadway or on any bridge;
4. Disturb any Town roadway or bridge for any purpose, including the placement of an access or entrance, pipes, sewers, poles, wires, or rails;
5. Place any obstruction or improvement on any Town roadway or bridge; or,
6. Plant or remove any tree or shrub on any Town roadway.

B. Issuance of permit. The Town's designee may issue a permit for work otherwise prohibited by subsection (A) of this section. Application for a permit shall be made on forms provided by the Town and shall include plans and specifications for the proposed work and payment of all application and review fees. All plan sheets and specifications submitted for approval shall be prepared and stamped by a Registered Professional Engineer licensed to practice in Maryland and shall include such design, survey, grade, profile, cross-section,

drainage and construction information as necessary to accurately depict the proposed work. The Town's designee may require necessary additional data, designs, details or specifications pertinent to the scope of work covered by the requested permit, and may waive the above requirements for simple applications (e.g., the planting of a street tree, etc).

1. All work under the permit shall be performed subject to the inspection, approval, and satisfaction of the Town's designee.
2. Every permit shall require, as a minimum, that the Town roadway or bridge be restored to a condition that is equal to its pre-existing condition, and if the permit calls for a higher standard, the higher standard shall govern.
3. All work performed on any Town roadway or bridge shall be performed at the risk of the permittee, who shall indemnify and hold the Town harmless from and against any liability of any kind whatsoever arising out of or relating to the work.

C. Suspension, revocation, or withholding. The Town's designee may suspend, revoke, or withhold any permits or approvals issued or granted (1) in error, or (2) based on incorrect, inaccurate, or incomplete information, or (3) in violation of any law, statute, ordinance, or regulation. No such permit or approval shall be considered to have been legally issued or effective for any purpose whatsoever. Suspension and withholding shall continue until all information and violations have been corrected, and all civil penalties and fees, if any, have been paid.

Section 10. Access Permits.

The Town's designee shall have authority to issue access permits for driveways, agricultural access and all other access permits, including public or private road access. No person shall construct, install, or use a new access without an access permit issued by the Town's designee. No person shall upgrade or intensify the use of any existing access without an access permit issued by the Town's designee. The Town's designee may impose restrictions, limitations, or conditions upon the issuance of access permits in accordance with the provisions of this Chapter.

Section 11. Use of roads and bridges.

A. General. Town roadways and bridges shall be available for use by any person and for any lawful purpose, except as restricted under the Town Code, this Chapter or otherwise by law.

B. Access.

1. Residential - Any Town roadway shall be available for access for residential lots from an approved driveway, provided that an access permit

is issued approving the location, construction, and orientation of the requested access.

2. Agricultural - Any Town roadway shall be available for agricultural access in accordance with a permit issued by the Town's designee.
3. All others - All other applications for access permits shall include such information as the Town's designee may require for evaluation of impacts, mitigation, construction, drainage, traffic, and public safety.

C. Prohibition on use. A person may not drive or move any vehicle or other equipment on or across any Town roadway or bridge if the vehicle or equipment is likely to cause damage to the roadway or bridge.

Section 12. Liability for damage.

A. Driver. Any person who drives or moves any vehicle or other equipment on any Town roadway is liable for all damage that the roadway sustains as a result of:

1. Driving or moving the vehicle or equipment; or
2. Driving or moving a vehicle or equipment that weighs more than the maximum statutory weight specified in State law or Town regulation, even if the overweight is authorized by a special permit issued under State law or this Chapter.

B. Owner. If the driver is not the owner of the vehicle or equipment, but is driving or moving it with the express or implied permission of the owner, the owner and driver are jointly and severally liable for the damage to the roadway.

Section 13. Special use permits.

The Town's designee, in accordance with regulations adopted by the Commissioners of Queenstown, may control the use of Town roadways and bridges through issuance of permits for specific commercial activities, including without limitation, weight and use restrictions, designated haul routes for hazardous materials, or designated times when certain commercial transport activities may occur, as may be necessary to protect the safety and welfare of the public or to maintain or protect the condition of roadways. Normal agricultural operations shall be exempt from such special use permit restrictions. It shall be unlawful for any person or entity to conduct a regulated activity without, or in violation of, a required permit. Notwithstanding the issuance of any such permit, the permittee shall be liable to the Town for any costs, expenses, or damages caused by operation of the vehicle or equipment.

Section 14. Unlawful acts.

A. Damage. It is unlawful to damage, deface, or alter any Town roadway or bridge

except as authorized by the Town in accordance with a permit or contract.

B. Unauthorized work. It is unlawful to perform any work on a Town roadway without prior written authorization and issuance of all required permits from the Town's designee. All work performed on any Town roadway or bridge shall be performed at the risk of the persons performing the work, who shall indemnify and hold the Town harmless from and against any liability of any kind whatsoever arising out of or relating to the work.

C. Dislodged materials. It is unlawful to throw, abandon, deposit, or dump solid or liquid waste or other material of any kind from any vehicle or other equipment on any Town roadway, including unintentional or incidental dislodgment.

D. Illegal use or operation. It is unlawful to drive or move any vehicle or other equipment on or across any Town roadway or bridge if the vehicle or equipment is overweight or not properly equipped as required by law.

E. Civil liability. Violation of any provision of this Chapter, whether by the owner of the vehicle, the person having control over the vehicle, or an employee or agent of either, shall result in civil liability of all such persons, jointly and severally, for all damages, costs, and expenses resulting from the violation, including all costs of repair or restoration, and all such amounts shall be assessed in addition to any other fines or civil penalties.

Section 15. Maintenance and services.

A. Town roadways. The Town, under the direction of the Commissioners of Queenstown, shall be responsible for maintenance and upkeep and for clearing debris, hazards and other obstructions for all Town roadways, bridges, and all associated drainage and other easements and structures. Services by the Town are restricted to Town roadways and bridges, outfalls, or other areas affecting a Town roadway, as determined by and subject to approval by the Commissioners of Queenstown.

B. Tree and brush removal. The Queenstown Department of Public Works shall have authority to order or perform any tree, brush, or vegetation clearance, control, or removal as necessary to preserve the safe and adequate passage of traffic, maintain drainage, or to maintain proper visibility and sight lines for any Town roadway. The criteria utilized for establishing sight lines shall not exceed those designated in the FHWA Manual on Uniform Traffic Control Devices for signage clearance.

Section 16. Drainage.

The following drainage provisions apply to management and control of stormwater runoff for Town roadways and bridges:

A. Generally.

1. *Drainage ditches.* The Town is authorized to maintain adequate drainage

for all Town roadways and bridges, and to manage and direct runoff as necessary.

2. *Outfalls.* The Town is authorized to maintain all drainage outfalls that receive runoff from a Town roadway or bridge in adequate condition to accommodate a ten-year frequency storm event as defined by the Design Manual or otherwise as necessary to mitigate flooding or improve drainage for the roadway or bridge. The Town shall not be required to perform maintenance or improve or correct deficient drainage in any drainageway, outfall, or drainage structure that does not receive runoff from a Town roadway or bridge.

B. Unlawful acts.

1. *Alteration.* It is unlawful to fill in, cultivate, plow, or alter any drainage ditch, structure, outfall, or any other structure affecting drainage for a Town roadway, or that is on Town property, without approval of the Town's designee. Any person violating this provision shall remove the unauthorized material or alteration and restore the disturbed structures or areas to their former condition, at the person's expense, in addition to any fines, fees, or civil penalties.
2. *Directing runoff.* It is unlawful to direct temporary or seasonal runoff drainage leaders to Town roadways from agricultural properties or construction sites: (1) without suitable management of runoff or control of sediment and soil erosion from the drainage area, or, (2) if it creates a condition requiring special maintenance, or, (3) it impairs the safety of the Town roadway.
 - a. If the Commissioners determine that (1) unmanaged runoff is being directed into a Town roadway; or, (2) sediment deposits from unmanaged runoff are impeding or altering the drainage flows in a roadway ditch; or, (3) unmanaged runoff is flooding the roadway, they may order the property owner, at the owner's expense, to implement controls, modifications or to alter existing practices to suitably manage the runoff.
 - b. At a minimum, such runoff management and sediment and erosion control measures shall be in accordance with the recommendations of the Natural Resources Conservation Service and the best management criteria of the Maryland Department of Agriculture. If the property owner fails to comply with any such order, the drainage leaders may be closed by the Town. The property owner shall be liable for the costs incurred by the Town in performing the corrective action authorized under this section.

Section 17. Subdivisions.

A. Private road maintenance agreements. No subdivision creating lots or parcels served by a private roadway or bridge shall be approved unless a maintenance agreement and deed covenants addressing, to the reasonable satisfaction of the Commissioners, the ownership and maintenance of the private road shall be recorded among the land records of Queen Anne's County, Maryland. The Commissioners may require additional terms, conditions, covenants, or restrictions consistent with the public interest. The subdivision plat and deed covenants shall state that the roadway or bridge is privately owned and that the Town is not responsible for maintenance, upgrade, or safety.

B. Drainage. No subdivision plat shall be recorded for any subdivision that creates lots or parcels served by a privately owned roadway or bridge, and no required permit shall be issued unless suitable drainage easements, maintenance agreements, and deed covenants shall first be approved by the Commissioners and recorded among the land records of Queen Anne's County.

C. Upgrades. Existing public or private roads proposed for use by new lots or parcels in any subdivision shall be upgraded to meet then current roadway classification standards unless waived by the Town's designee.

D. Roadway width. All roads shall be designed and constructed in accordance with this Chapter and the Design Manual. All property proposed for subdivision that is adjacent to an existing Town roadway that is less than the required right-of-way width shall, by acceptable means, provide 1/2 the width necessary to bring the Town roadway up to the Town right-of-way standard. This does not apply to alleys.

Section 18. Traffic Impacts.

The Town shall evaluate impacts to existing roadways and bridges caused by proposed development and determine appropriate mitigation for those impacts. Issuance of any permit or approval for proposed development may be subject to evaluation and mitigation of traffic impacts. The Town's designee and/or the Commissioners of Queenstown may contract professional services at the developer's expense to review, evaluate, or supplement the study and may request review and recommendations from the State Highway Administration.

Section 19. Public works agreements.

A. General. The design, construction, inspection, testing, acceptance, warranty, transfer, and maintenance of all new and upgraded Town roadways and bridges shall proceed in accordance with the provisions of this section. A public works agreement shall be required for all work on Town roadways, bridges, and rights-of-way, regardless of the classification of the proposed roadway except as authorized by a permit issued by the Town's designee.

B. Exceptions. Notwithstanding the requirements of Paragraph A, the installation of a driveway, agricultural access, or private roadway shall not require a public works agreement,

but shall require access permits, and compliance with all requirements for construction in a Town right-of-way.

C. Terms. All new Town roadway construction or upgrade of existing roadways or bridges, except those that are performed or funded by the Town, shall proceed in accordance with the terms and provisions of a public works agreement executed between the owner, contractor, or developer and the Town. Such agreement shall contain provisions for planning, administration, design, materials, construction, testing, inspection, approval, acceptance, transfer, warranty, and maintenance of the roadway, and such other terms and provisions as the Commissioners may consider necessary or appropriate. All public works agreements shall include provisions for insurance, funding, performance bonds, and maintenance bonds to assure that the work is completed and protected in accordance with the specifications. The public works agreement shall also include specific provisions for the settlement of disagreements and disputes during the course of the construction such that suitable and timely remedies are available without undue hardship to the owner, contractor, developer, or the Town.

D. Additional requirements. Construction and development authorized by a public works agreement shall be performed in accordance with all applicable federal, state, and local requirements. The Town shall not enter into any agreement for work or road construction on any property for which all owners have not approved the scope and terms of the agreement, and the agreement is in such form as may be required by the Town.

Section 20. Enforcement; violations and penalties.

A. Enforcement. A designee of the Commissioners of Queenstown shall enforce this Chapter.

B. Violations. Any person, firm or corporation who shall violate any of the provisions of this Chapter or fail to comply with any of the restrictions or requirements thereof, or who shall disturb or improve any road in violation of any plan submitted or permit issued hereunder, shall be subject to liability for a municipal infraction and shall be liable to a fine of not more than \$100 per offense. Each violation that occurs and each calendar day that a violation continues shall be a separate offense. Any person who violates any provision of this Chapter shall be subject to separate fines, orders, sanctions, and civil penalties for each offense.

C. Responsible persons. The following persons may each be held jointly or severally responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or, (5) any other person who has committed, assisted, or participated in a violation.

D. Administrative abatement orders.

1. A designee of Queenstown may issue an administrative abatement order to any person to perform any act or thing required by this Chapter. The administrative abatement may order such person:

- a. To correct, discontinue or abate any violation.
 - b. To cease any activity being performed in violation of this Chapter.
 - c. To apply for any permit, approval, or variance required by this Chapter.
 - d. To remove any construction materials, equipment, and any structures or other construction work built or erected in violation of this Chapter.
 - e. To restore any Town property to its condition as it existed before any violation of this Chapter.
 - f. To perform any condition, covenant, undertaking, or obligation required by this Chapter or by any contract, deed, or other instrument executed or recorded pursuant to the requirements of this Chapter.
2. Administrative abatement orders shall be served upon the responsible parties by personal delivery or by certified mail, return receipt requested, and simultaneously by first-class mail, postage prepaid, bearing a return address. In addition, any other method of service reasonably calculated to provide actual notice, and any method that does provide actual notice, shall be sufficient.
 3. An administrative abatement order shall include:
 - a. A description of each violation, including the applicable Town ordinance, regulation, or other requirement allegedly violated;
 - b. The time within which any required action is to occur, taking into account the specific action required to comply with the order and any existing or intervening harm or threat to the public health, safety, and welfare.
 - c. Notice of the right to appeal the order to the Board of Appeals and the period within which any such appeal must be filed.

Section 21. Administrative appeals.

Any person aggrieved by any written order or decision by the Town's designee under this Chapter, other than a municipal infraction citation, may file an appeal to the Board of Appeals by filing an application for administrative review in accordance with the Rules of Procedure of the Board of Appeals. An appeal must be filed within 30 days after the date of the written order, decision, or determination being appealed. An appellant may request the Town's designee to

stay any order or decision pending appeal, including suspension of any additional daily civil penalties imposed for continuing violations. The Town's designee shall promptly issue a written decision on the request.

Section 22. Appeals to courts.

Any person aggrieved by the decision of the Board of Appeals under this Chapter may appeal the decision to the Circuit Court in accordance with the Maryland Rules of Procedure.

SECTION 2. Severability. Should any article, section, subsection, sentence, clause, or phrase of this Bill, as enacted, be held unconstitutional or invalid for any reason, such decision or holding shall not affect the validity of the remaining portions hereof. The Commissioners of Queenstown intend to enact each such provision individually, and each shall stand alone, if necessary, and be enforced regardless of the invalidity of any other provision(s).

SECTION 4. This Ordinance shall take effect on the 22nd day of January, 2013.

ORDAINED, APPROVED, AND PASSED by the Town Commissioners for the Town of Queenstown on this 22nd day of January, 2013.

WITNESS:

TOWN COMMISSIONERS FOR THE
TOWN OF QUEENSTOWN:

Amy Moore
Amy Moore, Town Clerk

Perry A. Stutman
Perry A. Stutman, President

Amy Moore
Amy Moore, Town Clerk

John M. Bowell
John M. Bowell, Commissioner

Amy Moore
Amy Moore, Town Clerk

Thomas B. Willis, Jr.
Thomas B. Willis, Jr., Commissioner