

COMMISSIONERS OF OXFORD

Ordinance No. 1218

Introduced by: Peter Dunbar

Date: March 12, 2013

AN ORDINANCE OF THE TOWN OF OXFORD TO AMEND THE OXFORD ZONING ORDINANCE TO INCORPORATE REVISED CRITICAL AREA BUFFER REGULATIONS RECENTLY PROMULGATED BY THE CRITICAL AREA COMMISSION

Introduced, read first time, ordered posted, and public hearing scheduled on April 9, 2013 at 7:30 p.m. at the Oxford Town Meeting Room, Market Street, Oxford, Maryland 21654.

By Order _____
Town Clerk

I hereby certify that the foregoing Ordinance Number 1218 of the Town of Oxford was duly read, advertised, and enacted in accordance with the applicable provisions of the Charter of the Town of Oxford on this _____ day of _____, 2013.

Attest: _____
Cheryl Lewis, Clerk/Treasurer
Town of Oxford

COMMISSIONERS OF OXFORD

ORDINANCE NUMBER: 1218
INTRODUCED BY: PETER DUNBAR
DATE OF INTRODUCTION: MARCH 12, 2013

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WHEREAS, the Commissioners of Oxford 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 Oxford 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 Oxford have determined that it is desirable and in the public interest to revise Section 33 of the Oxford Zoning Ordinance to incorporate revised Critical Area Buffer regulations that have been recently promulgated by the State of Maryland Critical Area Commission.

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

Section 1: Section 33.13 of the Oxford Zoning Ordinance is hereby amended as follows:

§33.13 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 section. 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, **based on existing field conditions,**

is delineated landward from:

- a. The mean high water line of tidal water;
- b. The edge of each bank of a tributary stream; and
- c. The **landward upland** boundary of a tidal wetland.

2. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in subsection A.1 above and the minimum 200-foot Buffer as described in subsection A.3 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 subsection 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 subsection 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 Ordinance;
3. A development or redevelopment activity approved in accordance with the variance provisions of this Ordinance;
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. **A new or replacement septic system on a lot created before January 1, 1988, where:**
 - a. **The Health Department has determined the Buffer is the only available location for the septic system; and**

- b. **Mitigation is provided at a 1:1 ratio 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 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 A new subdivision or a new lot;**
 - 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.
- 2. All authorized development activities shall be mitigated **in accordance with the ratios and calculations found in COMAR 27.01.09.01-2(H)** ~~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;~~
- c. ~~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.~~

- 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.**

E. Buffer Planting Standards.

- 1. An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2-~~and 01-4.~~
- 2. Variance to the planting and mitigation standards of this Ordinance is not permitted.

F. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this section do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

- 1. A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:

- a. Fully establishing the Buffer;
 - b. Partially establishing an area of the Buffer equal to the net increase in lot coverage, or
 - c. Partially establishing an area of the Buffer equal to the total lot coverage.
2. Any permit for development activity that requires Buffer establishment or Buffer mitigation will not be issued until the Town approves a Buffer Management Plan.
 3. An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved.
 4. The Town will not approve a Buffer Management Plan unless:
 - a. The plan clearly indicates that all planting standards under subsection E will be met; and
 - b. Appropriate measures are in place for the ~~long-term~~ protection and maintenance of all Buffer areas.
 5. For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:
 - a. Completes implementation of a Buffer Management Plan; or
 - b. Provides financial assurance to cover the costs for:
 - (1) Materials and installation; and
 - (2) If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.
 6. Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
 7. If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance. A permit for

development activity will not be issued for a property that has the violation.

8. An applicant shall post the property proposed for subdivision prior to final recordation in accordance with COMAR 27.01.09.01-2.
9. **Buffer management plans that include natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.**

Section 2. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect twenty (20) days from and after the date of its final passage and adoption. This ordinance shall be incorporated into the Oxford Town Code upon its adoption.

ENACTED this _____ day of _____, 2013.

COMMISSIONERS OF OXFORD:

Gordon Graves, President

Peter Dunbar, Commissioner

Carol Abruzzese, Commissioner

I hereby certify that the foregoing Ordinance Number 1218 of the Town of Oxford was duly read, advertised, and enacted with the applicable provisions of the Charter of the Town of Oxford on this day of _____, 2013.

ATTEST:

Cheryl Lewis
Clerk-Treasurer