

ORDINANCE NO. 21-04

Introduced by: Thomas B. Willis, Jr.; President

AN ORDINANCE OF THE TOWN OF QUEENSTOWN TO AMEND ARTICLE IV, PART III OF THE QUEENSTOWN ZONING ORDINANCE TITLED, "CRITICAL AREA OVERLAY DISTRICT" TO COMPLY WITH RECENT AMENDMENTS TO THE NATURAL RESOURCES ARTICLE

WHEREAS, Md. Code Ann. Land Use Article § 4-202 authorizes municipalities to adopt zoning regulations as it determines are in the public health, safety and welfare; and

WHEREAS, in accordance with Md. Code Ann. Natural Resources Article § 8-1808, the Town of Queenstown has adopted a Critical Area Program, which is set forth in Article IV, Part III of the Queenstown Zoning Ordinance, titled "CA Critical Area Overlay District"; and

WHEREAS, pursuant to Md. Code Ann. Natural Resources Article § 8-1809(g), each local jurisdiction is required to review its Critical Area Program and propose any necessary amendments at least every six (6) years; and

WHEREAS, the Queenstown Planning Commission undertook the necessary review and proposed necessary amendments to the Critical Area Program which were submitted to the Critical Area Commission for review; and

WHEREAS, the Commissioners of Queenstown held a duly advertised public hearing on the amendments to the Critical Area Program on July 28, 2021; and

WHEREAS, the Queenstown Planning Commission and the Commissioners of Queenstown have determined that the amendments set forth herein are consistent with the Town's planning goals and objectives set forth in the Town's Comprehensive Plan and the standards sets forth in Md. Code Ann. Natural Resources Article § 8-1808(b)(1) through (3).

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

Section 1. The Queenstown Zoning Ordinance, Article IV, Part III is hereby amended as follows:

§ 27. Implementation of the Critical Area Program Purpose and Goals.

A. The Queenstown Critical Area Program

1. The Queenstown Critical Area Program consists of the Queenstown Zoning Chapter and the Queenstown Critical Area map. Related provisions may also be found in the Queenstown Subdivision Regulations.

B. Goals.

The goals of the Queenstown Critical Area Program are to accomplish the following:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
2. Conserve fish, wildlife, and plant habitat; and
3. Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.

C. Regulated activities and applicability.

Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Town after review to determine compliance with the Queenstown Zoning Chapter.

D. Critical Area Overlay District Map.

1. The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Queenstown. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:
 - a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private wetlands designated under ~~Title 9 of the Natural Resources~~ **Title 16 of the Environment** Article of the Annotated Code of Maryland.
 - b. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under ~~Title 9 of the Natural Resources~~ **Title 16 of the Environment** Article of the Annotated Code of Maryland.
2. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
 - a. Intensely Developed Area (IDA).
 - b. Limited Development Area (LDA).

c. Resource Conservation Area (RCA).

3. The Critical Area Overlay District Map may be amended by the Town Commissioners in compliance with amendment provisions in this Chapter, the Maryland Critical Area Law, the Critical Area Criteria and ~~Critical Area Regulations~~ **COMAR Title 27**.

E. General Requirements

1. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Chapter.
2. Reasonable accommodations for the needs of disabled citizens.
 - a. An applicant seeking relief from the Critical Area standards contained in this Chapter in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating the following:
 - (1) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
 - (2) Literal enforcement of the provisions of this Chapter would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
 - (3) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Chapter or restore the disabled resident's or user's reasonable use or enjoyment of the property;
 - (4) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Chapter as applied to the property; and
 - (5) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement, or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
 - b. The Board of Appeals shall determine the nature and scope of any accommodation under this Chapter and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Chapter. The Board may also consider the size,

location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

- c. The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Chapter. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

F. Notification of project approval. Applicants are hereby notified that the Town will send copies of applications for all developments, subdivisions, and site plans wholly or partially within the Critical Area as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment.

- 1. *The application will be accompanied by a completed "Project Notification Application" form downloaded from the Critical Area Commission's website.*
- 2. *The Town will not process an application, which has been sent to the Critical Area Commission for notification until it has received notice of receipt by the Critical Area Commission.*
- 3. *Any cation by the Town in violation of these procedures shall be void.*

**Summary of Notification Requirements
Critical Area Commission
(COMAR 27.03.01)**

<i>Type of Application</i>	<i>Requires Notification to the Critical Area Commission</i>		
	<i>Yes/No</i>		
	<i>IDA</i>	<i>LDA</i>	<i>RCA</i>
<i>1. Disturbance to a Habitation Protection Area</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>2. Physical disturbance to the Buffer (see Note 1)</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>3. Variance from Critical Area provisions</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>4. Development resulting in less than 5,000 square feet of disturbance</i>	<i>N</i>	<i>N</i>	<i>N</i>
<i>5. Development resulting in between 5,000 and 15,000 square feet of disturbance</i>	<i>N</i>	<i>N</i>	<i>Y</i>
<i>6. Development resulting in greater than 15,000 square feet of disturbance</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>7. Subdivision of 3 lots or fewer</i>	<i>N</i>	<i>N</i>	<i>Y</i>
<i>8. Subdivision of 4 to 10 lots</i>	<i>N</i>	<i>Y</i>	<i>Y</i>
<i>9. Subdivision of greater than 10 lots</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>10. Subdivision affecting Growth Allocation</i>	<i>N/A</i>	<i>Y</i>	<i>Y</i>
<i>11. Intrafamily transfer</i>	<i>N/A</i>	<i>N/A</i>	<i>Y</i>
<i>12. Rezoning that would occur wholly or partially</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

<i>within the Critical Area</i>			
13. Special exception or conditional use for industrial commercial, institutional, non-residential or multi-family	<i>N</i>	<i>Y</i>	<i>Y</i>
14. Substantial alteration to applications previously submitted to the Critical Area Commission	<i>Y</i>	<i>Y</i>	<i>Y</i>
Note 1: Shore erosion control measures and private piers that do not involve disturbance to the Buffer and are not permitted by MDE do not require Critical Area Commission notification			

§ 28. Intensely Developed Areas.

- A. Intensely Developed Areas are defined as, “an area of at least 20 acres or the entire upland portion of the critical area within a municipal corporation, whichever is less, where: residential, commercial, institutional, or industrial developed land uses predominate; and a relatively small amount of natural habitat occurs. These areas include: an area with a housing density of at least four dwelling units per acre; an area with public water and sewer systems with a housing density of more than three dwelling units per acre.”
- B. Development standards.

For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:

1. ***The following uses may only be permitted in the IDA only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:***
 - a. ***Nonmaritime heavy industry:***
 - b. ***Permanent sludge handling, storage, and disposal facilities other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100-foot Buffer.***
12. Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;
23. All roads, bridges, and utilities are prohibited in a Habitat Protection Area, unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction, and maintenance shall:

- a. Provide maximum erosion protection;
 - b. Minimize negative impact on wildlife, aquatic life, and their habitats; and
 - c. Maintain hydrologic process and water quality.
34. All development activities that must cross or affect streams shall be designed to:
- a. Reduce increases in flood frequency and severity that are attributable to development;
 - b. Retain tree canopy so as to maintain stream water temperature within normal variation;
 - c. Provide a natural substrate for stream beds; and
 - d. Minimize adverse water quality and quantity impacts of stormwater.
45. All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.
6. *New expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Buffer Management Areas (BMAs).*

§ 29. Limited Development Areas.

- A. Limited Development Areas are defined as, “an area: with a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an intensely developed area under the definition in this Chapter.”
- B. Development standards.

For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:

1. Development and redevelopment shall be subject to the water-dependent facilities requirements of this Chapter;

2. Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:
 - a. Provide maximum erosion protection;
 - b. Minimize negative impacts on wildlife, aquatic life and their habitats; and
 - c. Maintain hydrologic processes and water quality.
3. All development activities that must cross or affect streams shall be designed to:
 - a. Reduce increases in flood frequency and severity that are attributable to development;
 - b. Retain tree canopy so as to maintain stream water temperature within normal variation;
 - c. Provide a natural substrate for stream beds; and
 - d. Minimize adverse water quality and quantity impacts of stormwater.
4. ~~If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Chapter. Queenstown shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations. *If a wildlife corridor system is identified by the Department of Natural Resources on or near the site the following practices are required:*~~
 - a. The applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land on and adjacent to the site;*
 - b. A conservation easement, restrictive covenant, or similar instrument approved by the Town shall be provided to ensure maintenance of the wildlife corridor; and*
 - c. The wildlife corridor shall be preserved by a public or private group.*

5. Development on slopes greater than ~~15~~ *fifteen* percent (15%), as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.

6. Except as otherwise provided in this subsection, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.
 - a. If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.
 - b. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.
 - c. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).
 - d. Lot coverage limits provided in §a and §b above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:
 - (1) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purposes of lot coverage requirements.
 - (2) Lot coverage associated with new development activities on the property have been minimized;
 - (3) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §a by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;
 - (4) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;

The following table summarizes the limits set forth in §(1) through §(4) above:

Table B6d Lot Coverage Limits

Lot/Parcel Size (Square Feet)	Lot Coverage Limit
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,780 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

e. If the Planning Commission or its designee makes the findings set forth in §d above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:

- (1) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of Best Management Practices to improve water quality; and
- (2) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
- (3) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to Queenstown in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.50 per square foot of the required mitigation.

7. The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:

- a. The total acreage in forest and developed woodlands within the Critical Area shall be maintained or preferably increased;
- b. All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;
- c. If an applicant is authorized to clear more than ~~20~~ **twenty** percent (**20%**) of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared.
- d. An applicant may not clear more than ~~30~~ **thirty** percent (**30%**) of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a

rate of **three (3)** times the areal extent of the forest or developed woodlands cleared.

- e. If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town.

8. The following are required for forest or developed woodland clearing as required in §7 above:

- a. The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by Queenstown shall be posted to assure satisfactory replacement as required in §7 above and plant survival;
- b. No clearing is allowed until the Town has issued a permit. ***Forests and developed woodlands which have been cleared before obtaining a permit is a violation and shall be replanted at three (3) times the areal extent of the cleared forest;***
- c. Clearing of forest or developed woodlands that exceed the maximum area allowed in §7 above or prior to the issuance of a permit shall be replanted at three times the areal extent of the cleared forest; and
- d. If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.

9. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least ~~15 percent~~ ***fifteen percent (15%) the applicant shall designate, subject to Town approval, a new forest area on a part of the site not forested.***

~~a. The applicant shall designate, subject to Town approval, a new forest area on a part of the site not forested; and~~

~~b. The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town.~~

10. New, expanded or redeveloped industrial facilities may only be permitted in LDA if such a use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.

11. All forest, including afforested area, shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town.

§ 30. Resource Conservation Areas.

- A. Resource Conservation Areas are defined as, “an area that is characterized by nature dominated environments, such as wetlands, surface water, forests, and open space; and resource–based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource conservation areas include areas with a housing density of less than one dwelling per five acres.”
- B. Development standards.

For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:

1. Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Chapter.
2. Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.
3. Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Chapter. *For the purposes of calculating limitations on lot coverage, is as follows:*
 - a. *When a site is mapped entirely as RCA, lot coverage is based on the entire site area; and*
 - b. *When a portion of a lot or parcel is mapped as RCA, lot coverage is based on the area of the RCA.*
4. Nothing in this section shall limit the ability of a land owner to participate in any agricultural easement program or to convey real property impressed with such an easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per *twenty* (20) acres.
5. *A commercial, institutional, or industrial solar energy generating system may be permitted in accordance with COMAR 27.01.15.*

§ 31. Land Use and Density.

- A. Permitted Uses
1. Permitted uses in the Critical Area shall limited to those uses allowed by the underlying zoning classification as modified by Table A1a and the supplemental

use standards in §32 provided such uses meet all standards established for the Critical Area Overlay District.

Table A1a Permitted Uses

LEGEND: P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted		Land Use Management Designation		
ITEM	USE DESCRIPTION	ID A	LD A	RC A
1.00	RESIDENTIAL			
1.10	Accessory Dwelling Unit	P	P	PC
2.00	INSTITUTIONAL			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
3.00	COMMERCIAL			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	MARITIME/WATER DEPENDENT			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	RECREATION			
5.10	Golf course	P	P	PC
6.00	INDUSTRIAL			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
7.00	TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES			

	LEGEND: P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted	Land Use Management Designation		
ITEM	USE DESCRIPTION	ID A	LD A	RC A
7.10	Utility transmission facilities	PC	PC	PC
8.00	PUBLIC/QUASI-PUBLIC			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	NP
8.30	Sludge Facilities	PC	PC	NP

B. Maximum Permitted Density

1. The maximum permitted density for properties located in the Queenstown Critical Area shall be as shown in Table B1.

Table B1
Maximum Residential
Density (Dwelling Units Per Acre)

Land Use Management Designation		
IDA	LDA	RCA
Density permitted by Underlying Zoning	Density permitted by Underlying Zoning	1 dwelling unit per 20 acres

2. Calculation of 1-in-20 acre density of development.

In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

- a. Shall count each dwelling unit;
- b. May permit the area of any private wetlands located on the property to be included under the following conditions:
 - (1) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight (8) acres; and
 - (2) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Town, the Commission, and the State Department of the Environment.

§ 32. Supplemental Use Standards.

The following supplemental use standards apply to the permitted uses listed in Table A(1)(a) above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Accessory Dwelling Unit (1.10)

1. If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area (RCA) provided the additional dwelling unit is served by the Queenstown sewer system and:
 - a. is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or
 - b. is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.
2. An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and
3. The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions contained herein.

B. Existing institutional uses (2.10)

1. Existing institutional facilities shall be allowed in Resource Conservation Areas.
2. Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Chapter and the Grandfathering provisions in §34 and may require growth allocation.

C. New institutional uses (2.20)

1. New institutional facilities and uses, except those specifically listed shall not be permitted in Resource Conservation Areas (RCAs).
2. Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Chapter. These institutional uses are limited to:
 - a. A cemetery that is an accessory use to an existing church; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;

- b. A day care facility in a dwelling where the operators live on the premises and there are no more than eight (8) children;
- c. A group home or assisted living facility with no more than eight (8) residents; and
- d. Other similar uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.

D. Existing Commercial Uses (3.10)

- 1. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.
- 2. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Chapter and the Grandfathering provisions in §34 and may require growth allocation.

E. New commercial uses (3.20)

- 1. New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas (RCAs).
- 2. Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Chapter. These commercial uses are limited to:
 - a. A home occupation as an accessory use on a residential property and as provided for in this Chapter;
 - b. A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
 - c. ~~Other uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.~~

~~F. Expansion of existing commercial marinas (4.10)~~

- ~~1. Expansion of existing commercial marinas may be permitted within Resource Conservation Areas provided:
 - a. ~~Water quality impacts are quantified and appropriate Best Management Practices that address impacts are provided;~~~~

- ~~b. That it will result in an overall net improvement in water quality at or leaving the site of the marina;~~
 - ~~e. The marina meets the sanitary requirements of the Department of the Environment; and~~
 - ~~d. Expansion is permitted under the nonconforming use provisions of this Chapter.~~
- ~~2. Expansion of existing commercial marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates:~~
- ~~a. The project meets a recognized private right or public need;~~
 - ~~b. Adverse effects on water quality, fish, plant and wildlife habitat are minimized and Best Management Practices are applied to address impacts;~~
 - ~~e. Insofar as possible, non-water dependent structures or operations associated with water dependent projects or activities are located outside the buffer; and~~
 - ~~d. Expansion is permitted under the nonconforming use provisions of this Chapter.~~

~~G. New marina, commercial (4.20)~~

- ~~1. New commercial marinas shall not be permitted in Resource Conservation Areas (RCAs).~~
- ~~2. New commercial marinas may be permitted in Limited Development Areas (LDAs) and Intensely Developed Areas (IDAs) if allowed in the underlying zoning; provided:~~
 - ~~a. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.~~
 - ~~b. New marinas meet the sanitary requirements of the Department of the Environment.~~
 - ~~e. New marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:
 - ~~(1) The project meets a recognized private right or public need;~~~~