Shoreland Zoning

Impervious Surface Standard

History

- Impervious surface standards were included as part of the 2010 revisions.
- They were based on a number of studies that indicate that water quality decreases starting at 12% impervious area
- The 2010 rule established impervious surface thresholds of:
    - 15% impervious surface (IS) – no permit needed
    - 15-30% IS – allowed with a permit that includes mitigation of impacts
    - Over 30% - allowed only through a variance
    - Applies within 300 feet of a lake, river or stream
- **The 2010 rule also grandfathered all existing impervious surface – "You get to keep what you have" (this also applies to vegetation in the 35 foot buffer zone)**
    - Not only can you keep your impervious surface, you can:
        - maintain and repair it
        - replace it
        - relocate it or
        - modify it
    - For example, if you have 75% impervious surface, you can move your driveway, convert a patio into a porch, convert your tennis court into a barn (or vice versa), etc. as long as you stay at 75%.

Proposed Revisions

- Create the concept of a Highly Developed Area (HDA) as follows:
    - Identified as an urbanized area under the 2010 Census
    - Commercial, Industrial , Business (CIB) zoning
    - Other areas designated by counties
        1. At least 500 feet of frontage
        2. 50% of lots have over 30% impervious area
- In HDAs
    - Residential
        - increase from 15% to 30% with no permit
        - increase from 30% to 40% with permit and mitigation
    - CIB
        - Increase from 15% to 40% with no permit
        - Increase from 30% to 60% with permit and mitigation
- Change application to riparian lots, or lots wholly within 300 ft
- **Surfaces where runoff is treated or directed to areas that will infiltrate the water are exempt from the impervious surface standard**
    - For example, a concrete driveway where runoff is directed into a swale along the drive is not included in the impervious surface percentage

Note: These proposed revisions to the impervious surface standard are intended to provide much greater flexibility to counties and property owners through: 1. recognizing that already highly developed areas have need of greater areas of impervious surface, 2. easing administration and confusion by eliminating situations where only small parts of lots are impacted by the standard, and 3. allowing increases in impervious area by exempting surfaces where runoff from them is treated to protect water quality, or does not enter the receiving water at all.

Nonconforming Structure Standards

- Clarify maintenance and repair
- Allow lateral expansion of residences between 35 and 75 feet of the water up to 200 ft^2. Give counties the option of a one-time lateral expansion or multiple expansions with a cumulative 200ft^2 expansion.
- Clarify that discontinuance only applies to nonconforming use (conform with statute)
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Note: These revisions further reduce the number of nonconforming properties by allowing any sort of maintenance and repair within the existing building envelope, even for structures very close to the water (and eliminating the 50% rule), and allowing expansion of residences that are within the 75 foot setback area.

Vegetation Management

History

- Original 1970 rule provided no clear cutting within 35 feet of the "normal high waterline" and that "trees and shrubbery shall be regulated to protect scenic beauty, control erosion and reduce the flow of effluents and nutrients from the shoreland".
- The 2010 revisions retained the 35 foot vegetative zone inland from the "ordinary high water mark" and allows maintenance of vegetation, removal of trees consistent with generally accepted forestry practices, and removal of invasive, damaged, diseased or safety hazard causing vegetation.
- Both rules allowed for a viewing and access corridor – the 1970 rule allowed 30 feet in every 100 feet and the 2010 rule allows 30% of the frontage to a maximum of 200 feet.
- **The 2010 rule also grandfathers existing vegetation (just like impervious surfaces)**

Proposed Revision

- Clarify that a permit is not required to remove invasive, damaged or diseased vegetation or vegetation that poses a safety hazard as long as the area is re-vegetated with native plantings