

The Capital

Tougher shoreline penalties proposed

ENVIRONMENT

Critical Area law violators would face consent order

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Anne Arundel County is moving to crack down on property owners who build on sensitive waterfront land without permission.

The County Council will consider a proposal from County Executive John R. Leopold that would require those who violate the Critical Area law to sign a legal document admitting guilt before seeking retroactive approvals for work that's already been done.

And if the property owner refuses to sign the document, called a consent order, the county would move to demolish the offending structure.

County Council Chairman Cathy Vitale, R-Severna Park, introduced the bill on Mr. Leopold's behalf. She's also cosponsoring it. A public hearing is set for Aug. 4.

"We've sent a clear message that we intend to be responsible stewards of the land and leave the land in better condition for future generations ... I think that we've got to match the rhetoric with specific actions that have teeth," said Mr. Leopold, a Republican.

The state Critical Area law restricts building along the shoreline, as that area is seen as the last line of defense against pollution flowing into the water.

While the Critical Area law is a state measure, it falls to cities and counties to administer and enforce it. Some jurisdictions have been lax, while others have been more strict. Despite the differences, "the counties take the enforcement seriously," said David Bliden, executive director of the Maryland Association of Counties.

Mr. Leopold's proposal could set up Anne Arundel to become one of the harsher jurisdictions when it comes to enforcement.

The proposed consent decrees also would:

Set time limits for the property owners to get approvals and fix the problems.

Set out a restoration plan to make up for environmental damage.

Include fines and require the property owner to pay attorney fees "and other costs incurred by the county."

The consent decrees will be binding, even if the property is sold, according to Mr. Leopold's proposal.

There also is a provision that allows the county's director of inspections and permits to waive the need for a consent decree for "minor" violations.

Mr. Leopold said he hopes the consent decrees would prevent repeat offenders and egregious offenders. And he also hopes to avoid drawn-out court cases.

He points to high profile cases, such as that of Daryl Wagner, owner of Little Island in the Magothy River.

Mr. Wagner built a home, swimming pool and replica lighthouse on the island - which is in the Critical Area - with nary a building permit or Critical Area approval. He later was allowed to apply for permits and approvals retroactively.

That case, Mr. Leopold said, "was clearly a black eye on the county and we want to reverse those unfortunate policies of the past."

Mr. Leopold said he also plans to improve education efforts by the county, so property owners can better be informed about what the Critical Area rules are and who must follow them.

The Chesapeake Bay Foundation has been a vocal critic of Critical Area enforcement. While officials with the nonprofit group are intrigued by Mr. Leopold's proposal, they aren't ready to hop on board just yet.

But they are pleased to see him trying something more aggressive.

"We're glad to see that Anne Arundel County has taken the initiative to move further on its own. We hope it amounts to something," said Terry Cummings, CBF's director of advocacy.

The Critical Area law wasn't enacted until the mid-1980s, when the shores already were heavily developed. And grandfathering provisions, loopholes and flagrant offenders have, in many cases, led to much more waterfront development than lawmakers anticipated.

During this year's General Assembly session, state lawmakers updated the two-decade-old law. They increased the no-build zone under certain circumstances, mandated "living" shorelines for new shoreline projects, increased penalties for violators and made it possible to yank the licenses of contractors who break the rules.

Another requirement of the new law was for counties to establish their own enforcement program. While Anne Arundel already has an enforcement program, this proposal from Mr. Leopold is designed to strengthen it.

The County Council also will consider another bill that will update the Critical Area program. Most of the changes are technical adjustments that only apply under certain circumstances, but it also would bar people from trying to get their property removed from the Critical Area altogether. That bill is set for a public hearing on Aug. 18.

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