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# PENNSYLVANIA COASTAL ZONE MANAGEMENT

## SURVEY ANALYSIS OF THE LOCAL ADMINISTRATION OF THE BLUFF RECESSION AND SETBACK ACT

COASTAL ZONE
INFORMATION CENTER

Prepared by the
DEPARTMENT OF ENVIRONMENTAL RESOURCES
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## Table of Contents


| | Page |
|---|---|
| Introduction | 1 |
| Survey Results | |
| Fairview Township | 2 |
| Girard and Springfield Townships | 4 |
| Harborcreek Township | 5 |
| North East Township | 6 |
| Lawrence Park Township | 7 |
| Millcreek Township | 8 |
| Lake City Borough | 9 |
| Final Recommendations | 10 |

# PENNSYLVANIA COASTAL ZONE MANAGEMENT SURVEY ANALYSIS OF THE LOCAL ADMINISTRATION OF THE BLUFF RECESSION AND SETBACK ACT

## INTRODUCTION

This paper analyzes the administration of local ordinances developed pursuant to the Bluff Recession and Setback (BRS) Act. The Department of Environmental Resources, Division of Coastal Zone Management (CZM) has been charged with the oversight of municipal compliance with their ordinances.

This analysis was undertaken to determine if the affected townships are satisfactorily implementing (i.e. enforcing and monitoring for BRS activities) their adopted regulations, and if there are any problems that the CZM Program needs to address. A municipality was deemed to have satisfactorily implemented in a consistent and effective manner the bluff setback ordinance and regulations when in any area designated as having a bluff recession hazard no person shall have constructed, installed, or engaged in a substantial improvement to any structure, or any utility facility in violation of the bluff setback requirements.

The analysis was developed by examining past efforts of the Erie County Department of Planning's review of county building records, and by surveying all pertinent township code enforcement officers. Additionally CZM staff experiences and observations were included in the development of the analysis.

The County Planning Department's efforts consisted of reviewing Erie County's building permit records to determine if a selected township had issued any building permits for activities occurring within the BRS area. The Planning Department concluded that no permits had been issued, and that their findings were consistent with the information submitted by the township, and required by the Division of Coastal Zone Management (DCZM) in performing their annual review of the BRS Act activities.

Secondly, the CZM Program, through the use of their annual overflight program was able to monitor for new construction occurring within several BRS affected townships. CZM personnel did not observe any activities that would be contrary to any BRS Regulations.

Finally, the CZM Program conducted a survey of the affected townships to ascertain how BRS activities are monitored by them, and if they felt or knew if any of these activities are being undertaken without their knowledge. The townships surveyed were Fairview, Girard, Springfield Harborcreek, North East, Lawrence Park, Millcreek and Lake City Borough.

The survey carried the most weight in this analysis because it involved a direct questioning of these Townships' code enforcement officers who are responsible for enforcing the regulations. The survey was administered verbally over the telephone in order to alleviate misinterpretation of the questions, and to discuss any side issues that were brought out. Because of their importance, the survey results are contained in this document.

## Survey Results

**TOWNSHIP:** Fairview Township

**ZONING OFFICER:** Ralph Heidler

**PHONE NO.:** (814) 474-5942

**BUILDING LOTS IN BRS AREA:** 123

**OVERVIEW:** Mr. Heidler monitors the entire township via weekly truck patrols. Some walking is involved in the neighborhoods. Mr. Heidler once utilized a boat to monitor shore front properties and found it to be effective.

He feels that some minor BRS activities are being performed without his knowledge. These areas cannot be viewed from main public roads and are accessed only through private roads leading to the lakefront property which Mr. Heidler doesn't travel too often.

It should be noted that Fairview Township has a very strict BRS ordinance which, unlike the others, requires a permit for any building activity, no matter how minor. As such the erection of a fence or small utility shed without a permit would be considered a violation, albeit minor in nature.

Retrospective of the BRS Act and Regulations, Mr. Heidler is positive that no substantial construction or improvement has occurred within Fairview Township without having first obtained the necessary building permit.

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Mr. Heidler felt that utilizing a boat three or four times a year to monitor the BRS area would be effective. However, he said he was utilizing most of his office's funding for mapping and truck patrols and can't afford a lakefront patrol. He also said that he had heard that CZM had some aerial photos and felt that by comparing these photos one might be able to locate illegal BRS activities.

**FINDINGS:** From the survey it appears that Mr. Heidler is satisfactorily monitoring for BRS activities in the readily accessible areas, but is experiencing difficulty monitoring some lakefront properties.

**OPTIONS FOR CONSIDERATION:** Monitoring in some areas of Fairview Township is difficult, as inferred by Mr. Heidler's survey responses. One possible solution would be to discuss with Mr. Heidler the possibility of spending less money for truck patrols and mapping, and utilizing it instead for lakefront monitoring via a boat.

A second option that would be superior to the one mentioned above would be for the CZM Program to fund a lakefront overflight and invite Fairview Township to participate. Mr. Heidler's recommendation of supplying aerial photographs is unfeasible as the CZM Program does not have continuous shoreline photographs taken on an annual basis, but rather has random photos of many sites.

**TOWNSHIP:** Girard and Springfield Townships

**ZONING OFFICER:** Eric Chiarizio

**PHONE NO.:** (814) 774-2559

**BUILDING LOTS IN BRS AREA:** 50 and 42, respectively

**OVERVIEW:** Girard and Springfield Townships have the same code enforcement officer, and monitoring and enforcement in each municipality are performed the same way. In January, 1986, Mr. Chiarizio was replaced as code enforcement officer in Girard Township. His replacement is Ann Murphy.

Mr. Chiarizio reported that there are large parcels of land that have barricaded private roads which make them inaccessible. Monitoring is accomplished by periodically driving through the townships, and also by observing the shoreline from his boat while fishing off shore. Penelec and U.S. Steel Companies have large parcels of undeveloped land in Girard and Springfield Townships respectively; also there are not that many cottages in Springfield Township. He added that there is a lot of "wasteland" in these two Townships that is not developed, but only contains scrub brush.

Mr. Chiarizio doubts that any BRS activities are being undertaken without his knowledge as people are aware of the BRS ordinance, he knows what they're doing, and informs all new residents of the BRS requirements.

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Mr. Chiarizio inquired about any available CZM aerial photographs that could be reviewed to monitor for building activities. He suggested that perhaps an aerial survey (photo) could help him.

**FINDINGS:** It appears that Mr. Chiarizio is satisfactorily performing monitoring and enforcement activities in these two townships via land and water surveillance. He has informed all affected residents of the BRS ordinance, and continues to inform new residents. He is, however, confronted with inaccessibility to some lakefront cottages and also with patrolling large (wasteland) areas.

**OPTIONS FOR CONSIDERATION:** Since Mr. Chiarizio was recently replaced in Girard Township, the CZM Program should make all attempts to contact Girard Township's new code enforcement officer and explain the CZM Program, the BRS Regulations, and offer any assistance available. As stated earlier however, the CZM Program does not have any continuous aerial photographs of the bluff areas.

**TOWNSHIP:** Harborcreek Township

**ZONING OFFICER:** Rich Hall

**PHONE NO.:** (814) 899-3171

**BUILDING LOTS IN BRS AREA:** 215

**OVERVIEW:** According to Mr. Hall, monitoring of the BRS area is performed once a week by riding through the area in a car. The area is very accessible as the township roads are located close to the BRS area, thus permitting close observation.

Mr. Hall doesn't believe any BRS activities are being undertaken without his knowledge, as there isn't that much building construction occurring in his township.

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Mr. Hall suggested that using a boat or helicopter could possibly improve his monitoring efforts.

**FINDINGS:** It appears from the survey that Mr. Hall believes that he has a good grasp on the BRS activities occurring within his township. However, his response that the use of a boat or helicopter could help improve monitoring suggests that possibly more could be done. This seems probable as he is required to monitor 215 building lots located within the BRS area, and an unknown amount of building lots elsewhere in the township.

**OPTIONS FOR CONSIDERATION:** The Pennsylvania CZM Program should consider aiding Mr. Hall's BRS monitoring efforts by sponsoring an overflight for use on a trial basis.

**TOWNSHIP:** North East

**ZONING OFFICER:** Tom Weinhiemer

**PHONE NO.:** 814-725-8606

**BUILDING LOTS IN BRS AREA:** 266

**OVERVIEW:** Mr. Weinhiemer monitors the BRS area in North East Township by riding in the car "quite a bit". He also observes these shoreline properties while fishing from his boat. Mr. Weinhiemer firmly believes that he has a good idea on what, if any, BRS activities are occurring in his township; as he is a life long resident and knows the people and properties well. If any BRS activities are being undertaken without his knowledge, they would be minor in nature such as the construction of a storage shed. Major development will not occur according to Mr. Weinhiemer as most of the existing lots are "cottage lots", whose dimensions are about 30 feet x 50 feet. As such, they cannot get septic system permits from the County Health Department and will remain as summer cottages with minor, unsubstantial development occurring. Mr. Weinheimer reported that he has no problems with entering private drives (and doesn't think other townships code enforcement officers face this problem) as "he has the authority to go where he wants to." The State Act provides this authority.

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Mr. Weinheimer had no ideas on how monitoring in his township could be improved, but stated he would like to participate in a boat or overflight monitoring survey if one was held.

**FINDINGS:** It appears, from Mr. Weinhiemer's strong positive reponses, that no BRS activities are ocurring without his knowledge.

**OPTIONS FOR CONSIDERATION:** If the CZM Program sponsors an overflight, and there is room available, Mr. Weinhiemer should be asked to participate.

**TOWNSHIP:** Lawrence Park

**ZONING OFFICER:** Delores Bendig

**PHONE NO.:** (814) 899-2305

**BUILDING LOTS IN BRS AREA:** 31

**OVERVIEW:** William Skelley, Township Code Enforcement Officer died in 1985. His responsibilities which have been assumed by Township Secretary Delores Bendig will soon be taken over by Dick Sanner. This survey involves Ms. Bendig's responses.

According to Ms. Bendig, Lawrence Park Township's BRS area is very small with most of the housing development situated in one area. The remainder of this area consists of open space, the Lawrence Park Golf Course and a large picnic grove area owned by General Electric. Because of this development pattern, the township knows what is going on in this small developed BRS area. Monitoring is performed on an as needed basis.

Ms. Bendig believes that because of the relatively small size of the developed area, no BRS activities are being undertaken without the township's knowledge.

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Ms. Bendig suggested that perhaps letters describing the BRS ordinance and related activities could be sent to the small number of affected people in the township.

**FINDINGS:** Because of the turnover rate of township code enforcement officers, it should be assumed that the monitoring of BRS activities as well as all other township code enforcement activities have suffered. The hiring of Dick Sanner to replace the deceased Bill Skelley will bring stability to the monitoring process, in that, hopefully this position will be held by one person for a length of time.

In addition, the unique development pattern in that all of the township's 31 BRS sites are located in a relatively small area, and are readily accessible, is conducive to good monitoring.

**OPTIONS FOR CONSIDERATION:** The CZM Program should encourage and offer assistance as pertinent to Ms. Bendig or Dick Sanner in developing letters to be sent to citizens who own property within the township's designated bluff recession hazard area.

**TOWNSHIP:** Millcreek

**ZONING OFFICER:** Bob Sidman

**PHONE NO.:** (814) 833-1111 after 1 p.m.

**BUILDING LOTS IN BRS AREA:** 145

**OVERVIEW:** According to Mr. Sidman, monitoring for building activities is accomplished by both riding in a car and walking the area. The township "usually has a man in the field daily" performing monitoring tasks. In addition, monitoring of the BRS area is performed quite often because it's close by.

Mr. Sidman believes that no BRS activities are going undetected as "we monitor it closely."

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Mr. Sidman had no pertinent suggestions.

**FINDINGS:** It appears from the survey that Mr. Sidman believes that he is satisfactorily monitoring for BRS activities through the use of a full time inspector.

**OPTIONS FOR CONSIDERATION:** None.

**TOWNSHIP:** Lake City

**ZONING OFFICER:** Rich Roberts

**PHONE NO.:** (814) 774-2116 (Home - 774-9329, Work - 871-2320)

**BUILDING LOTS IN BRS AREA:** 9

**OVERVIEW:** Lake City's governmental tasks are carried out mostly by volunteers. Mr. Roberts, who is the volunteer township code enforcement officer, has a full time job elsewhere.

According to Mr. Roberts, Lake City is a very small community and has a limited area within the BRS area. If something is not correct he knows about it. There "is no possible chance of something going on without my knowledge," reported Mr. Roberts.

Monitoring is accomplished by Mr. Roberts patrolling in his car. However, he relies mostly on police officers on patrol, to inform him of anything going on in the township. He believes that there are no BRS activities being undertaken in Lake City Township without his knowledge.

**ZONING OFFICER'S SUGGESTIONS FOR IMPROVING MONITORING:** Mr. Roberts had no ideas on how to improve local monitoring.

**FINDINGS:** It appears from the survey that Mr. Roberts is quite positive that no BRS activity will be undertaken in his township without his knowledge. This is supported by the fact that there are only nine building lots in Lake City that are within the BRS area. All the lots are condensed in a small area, and as such, present no obstacles to access for monitoring purposes.

**OPTIONS FOR CONSIDERATION:** None.

## FINAL CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS:

1. Millcreek, Lawrence Park and Lake City Townships are satisfactorily monitoring for illegal BRS activities. This has been proven by their strong, positive responses, coupled with the fact that they have a limited number of properties within the BRS area to monitor. North East Township, which has a large number of building lots, is also monitoring satisfactorily for BRS activities, as the zoning administrator has expressed no problems in doing so.

2. Girard, Springfield, and Harborcreek Townships' monitoring efforts are satisfactory, but they are having difficulty in monitoring unaccessible and "wasteland" type areas. Fairview Township has identical problems, and was the only township to admit that some minor BRS activities are being performed without their knowledge. However, as previously discussed in the Fairview Township Survey, these minor activities are not covered under the State regulation's definition of substantial improvement. Therefore, Fairview Township is satisfactorily monitoring for BRS activities, but having difficulty.

RECOMMENDATIONS:

1. In reference to Lawrence Park Township's response on informing the public, the CZM Program should encourage and offer assistance as pertinent to Ms. Bendig or Mr. Sanner in developing letters to be sent to citizens who own property within the township's designated bluff recession hazard area. This letter would help to inform/reinform all BRS affected property owners of the basic requirements of the township's setback ordinances. In retrospect, costs for preparing the correspondence and postage could be paid for by the CZM Program.

2. The CZM Program should make all attempts to contact the new code enforcement officers of Lawrence Park (Mr. Sanner) and Girard (Ms. Murphy) Townships to inform them of the Pennsylvania CZM Program's interest in BRS activities and the availability of assistance/funding we provide.

3. The CZM Program should consider sponsoring (on a trial basis) an aircraft for BRS monitoring for Girard, Springfield, Harborcreek and Fairview Townships. North East Township, which is experiencing no monitoring difficulties, should be asked to participate if space is availabe because of their expressed interest. Monitoring the bluffs by boat would be unfeasible as activities occurring on top of the bluffs would be unobservable.

   In addition, the use of a helicopter could help those administrators who have expressed concern over accessibility to properties. It appears from the survey that some private roads have locked gates, or roads are in bad condition or don't even exist. This precludes site visits by some code enforcement officers.

4. The CZM Program should continue to keep all township building code enforcement officers (and Township Supervisors) appraised of any future changes in the BRS regulations and other related findings, and resultant impacts to them. This should be performed via registered mailings and not by holding meetings. Past attempts at meeting with all

township code enforcement officers collectively to discuss changes in BRS Regulations, have twice proved fruitless.

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