WATER RESOURCES DIVISION
POLICY AND PROCEDURES

NUMBER:	**WRD-006**
TITLE:	**PART 353, REVIEW OF CANTILEVERED PORTIONS OF BUILDINGS**
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ISSUE:

Questions have been raised regarding regulation of cantilevered portions of buildings within the critical dunes areas. Under certain circumstances cantilevers or the impact from the cantilevers have caused negative impacts to slopes under and immediately adjacent to the cantilevered portions of structures. These impacts could include excessive shading of native vegetation, changes in wind flows causing a wind tunnel effect, and possible slope changes due to deposition. Lack of vegetation allows erosion from both water runoff and in some instances from changed wind patterns thus impairing the critical dunes resources protected by Part 353, Sand Dunes Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The Water Resources Division seeks to administer Part 353 in relation to cantilevers in a consistent manner and to limit adverse secondary impacts arising from installation of the cantilevers.

DEFINITIONS:

"Contour change" includes any grading, filling, digging, or excavating that significantly alters the physical characteristic of a critical dune area, except that which is involved in sand dune mining as defined in Part 637, Sand Dune Mining, of the NREPA.

"Crest" means the line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 1-foot vertical rise in a 5.5-foot horizontal plane [18%] for a distance of at least 20 feet, if the areal extent where this break occurs is greater than 1/10 acre in size.

"Critical dune area" means a geographic area designated in the "atlas of critical dune areas" dated February 1989 that was prepared by the Department of Environmental Quality (DEQ).

"Restabilization" means restoration of the natural contours of a critical dune to the extent practicable, and the restoration of the protective vegetative cover of a critical dune through the establishment of indigenous vegetation, and the placement of snow fencing or other temporary sand trapping measures for the purpose of preventing erosion, drifting, and slumping of sand.

"Use" means a developmental, silvicultural, or recreational activity done or caused to be done by a person that significantly alters the physical characteristic of a critical dune area or a contour change done or caused to be done by a person. Use does not include sand dune mining as defined in Part 637.

"Zoning ordinance" means an ordinance of a local unit of government that regulates the development of critical dune areas within the local unit of government pursuant to the requirements of this part.

This policy provides guidance to staff regarding the implementation and interpretation of laws administered by the DEQ. It is merely explanatory, does not affect the rights of or procedures and practices available to the public, and it does not have the force and effect of law.

POLICY:

In areas where the DEQ administers Part 353, staff will process permit applications involving cantilevered buildings in a manner that is consistent with the critical dunes resource protections mandated by the legislation.

The below procedure provides guidance to staff on how to review permit applications for projects that involve cantilevered portions of buildings.

PROCEDURE:

Responsibility	Action
Critical Dune Program Staff	Review proposals for cantilevered structures for compliance with Part 353 as explained in this procedure. In reviewing applications for permits for buildings using cantilevers over slopes, based on Section 35316 of the NREPA, staff should consider, among other things, existing and proposed vegetation types, and direction that the cantilever is facing due to both wind and light considerations, height of the cantilever above the slope, and if the slope is ascending or descending. For example, staff should consider whether the design will allow for sufficient light and water to reach the slopes to allow vegetation to survive. Generally, cantilevers that are elevated 1-foot for every foot out from the foundation should have adequate clearance. As long as the cantilevers satisfy this criterion and they are not cantilevering lakeward of the crest, a special exception will not be required to approve permits for a cantilever over slopes with a gradient of greater than one on three. Permits should require restoration and/or restabilization of slopes under or adjacent to cantilevers once construction is complete, consistent with Part 353. Restabilization should include planting with shade tolerant species of indigenous plants. If the cantilevered area is within 100 feet of the crest, the shade tolerant plants shall be indigenous, pursuant to Section 35316(2) of the NREPA. If a cantilever proposal is in compliance with Part 353 as explained in this procedure, permit may be issued. If a cantilever proposal is not in compliance with Part 353 as explained in this procedure, identify revisions needed to comply, provide alternatives to the applicant, or deny the permit.

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Special Exception Panel	Reviews proposed cantilever projects that do not provide the isolation distance from the slope described above pursuant to Section 35317 of the NREPA.

Approved: _____ Date: 7/25/11
William Creal, Chief
Water Resources Division

Last Reviewed By: _____ Date: _____
Name and Title

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