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LGPC Proposed Stormwater Regulations Updates - Beginning Year 2021

The Lake George Park Commission (LGPC/Commission) currently administers stormwater management regulations related to land development in the Lake George Park. These regulations went into effect in September of 1990, and were subsequently updated in 1998. The Commission maintains jurisdiction and administers the stormwater permit process in the towns of Hague, Ticonderoga, Putnam, Dresden and Fort Ann. The towns of Queensbury, Bolton, Lake George and the Village of Lake George have adopted the Commission's model stormwater regulation and have assumed jurisdiction and administration within their own municipal processes.

All NYS agencies including the Commission are required to review their regulatory authorities within a reasonable timeframe and update those regulations as needed through a public process. The Commission's current stormwater regulations and standards have been in place in their current format for 22 years, and the Commission finds that these regulations are due for review and updating.

As such, the LGPC has reviewed the Commission's Stormwater Management Regulations (Subpart 646-4), with the intent of achieving enhanced protection of the water quality of Lake George while balancing the impact on the regulated community. Proposed modifications are based on stormwater management science and are focused on reducing existing and future impairments to Lake George water quality.

To achieve the goal of long-term sustained protection of Lake George's outstanding water quality and clarity, the LGPC is considering the following regulatory changes to Subpart 646-4.

ITEM 1: Logging and Agricultural Activities

Action: Logging and agricultural activities which exceed stormwater jurisdictional disturbance thresholds (5,000 square feet) must have a conservation plan that has been reviewed and approved by the Commission or the local municipality administering stormwater regulations prior to commencement of the logging activity. Logging operations must comply with the proposed 35' stream corridor cutting restrictions as noted in Item #5 of this document.

About This Change: Logging and agricultural activities exceeding 5,000 square feet of disturbance are already regulated actions by the LGPC. However, the current regulations do not require conservation plan approval from the Commission or delegated municipality, rather they require approval from the County Soil and Water Conservation District or the NYS DEC to ensure that the proposed activities are in compliance with best management practices and that they will not have undue impact to streams, wetlands or the lake. The proposed modification would transfer oversight from these outside agencies directly to the agency or municipality administering the stormwater regulations. A two-page "Notice of Intent/Soil Conservation Plan Form" needs to be submitted to the Commission or delegated municipality two weeks in advance of a logging job.

Historically, the regulatory offload onto the DEC and Conservation Districts has led to an incomplete understanding of the regulatory requirements and has led to low compliance rates. This has resulted in several enforcement cases against landowners and logging companies, and created impacts to natural resources that could have been avoided with proper planning and review. Conservation/erosion control plans submitted by landowners or their logging contractors will be guided by the DEC's NYS Forestry Best Management Practices for Water Quality.

References: 646-4.3 and 646-4.12(C)(a)

ITEM 2: Fertilizer Applications

Action: Within the Lake George Park, no person shall apply or authorize the application of lawn fertilizers within 50 feet of any waterbody, excepting newly established lawn areas during their first growing season.

About This Change: Lawn fertilizers by their very nature provide food for vegetative establishment and growth. However, these same fertilizers applied in excess or carried offsite into a waterbody, can greatly accelerate the growth of aquatic plants and algae in waterbodies and wetlands. The resulting impact reduces water clarity, water quality, and the quality of the aquatic system. Fertilizers applied adjacent to waterbodies are much more prone to being conveyed offsite and into those waterbodies, causing these resulting negative effects. By eliminating lawn fertilizer applications within 50 feet of any waterbody or wetland, those resulting unintended impacts can be greatly reduced.

This regulation parallels the Town of Queensbury regulation which was enacted in 2011 (Local Law 5-2011). The goal is to provide greater public awareness of the negative impacts of lawn fertilizers on Lake George and its many tributaries and wetlands, ultimately resulting in lesser impacts to these natural resources.

No permit shall apply to this provision. It is simply proposed to be a restriction on use.

Reference: 646-4.5 (Prohibitions)

ITEM 3: Standard Setback for Stormwater Facilities for Residential Projects

Action: Create a standard 35 foot setback to water resources for all infiltration devices serving residential projects. This action is a lessening of restrictions for major land development projects, reducing the existing horizontal setback distance between stormwater infiltration devices and water resources (i.e. Lake George, streams, wetlands, wells) from 100-feet to 35-feet. Stormwater infiltration and treatment practices have often required a variance on smaller parcels due to the relatively large setback requirement. This setback relief will allow for appropriate, protective stormwater infiltration practices for applicants and stormwater designers.

About This Change: Currently, all stormwater infiltration devices for projects meeting the "Major" development standard as well as those that service roadways and parking lots for "Minor" development standards must meet a 100 foot setback requirement from all water resources. Stormwater from residential development is generally less impactful to lake and stream water quality than stormwater from larger and more commercial developments. However, the regulations currently do not differentiate between these uses. As a result of the 100 foot setback requirement, it is often difficult for applicants to complete quality stormwater efforts for single home residential projects. The Commission believes that a standard 35' setback for all residential infiltration devices will dovetail better with existing shoreline setbacks and allow for greater stormwater treatment to be designed and constructed, thus protecting the quality of Lake George and its tributaries.

Infiltration devices servicing areas subject to high motor vehicle traffic would still be subject to the 100' setback to water resources.

Reference: 646-4.14(2)(viii)

ITEM 4: Stormwater Retrofits for 'Minor' Project Applications

Action: For all jurisdictional development projects in the basin, stormwater retrofits shall be required to mitigate stormwater discharges from all existing impervious areas on the property through retrofitting practices to the maximum extent practicable, but for not less than one-half inch of precipitation.

About This Change: Even with the Commission's stormwater regulations in effect, the overall water quality of Lake George continues to decline, primarily due to stormwater runoff from developed lands. Only through systematic improvements made to developed lands in the Lake George basin will this downward trend in water quality and clarity slow and ultimately reverse. Stormwater runoff from unmanaged properties has also resulted in a steady stream of landowner conflicts throughout the basin, where runoff from one property flows unabated onto another property, causing flooding, erosion and other impacts. This regulation will help ameliorate these issues over time as landowners in the Lake George basin upgrade their properties with improvements and additions.

The Commission regulations currently require that all development projects that meet the Major project classification (exceed 15,000 square feet) mitigate stormwater from the developed portion of the property. This proposed change will reduce that threshold to include Minor stormwater projects. As such, all development projects exceeding 5,000 square feet of land disturbance or 1,000 feet of new impervious area will need to provide for stormwater management/retrofitting to eliminate discharges from the developed portion of property.

In accordance with the current stormwater regulations, retrofits shall comply with the design requirements and performance standards to the greatest extent practicable, and at a minimum provide control measures to infiltrate the runoff from the first one-half inch of precipitation (which is less than the volume that is required for new development projects). Variances are not required where strict conformance with typical design requirements and performance standards may not be met, and can be done at the staff level.

Reference: 646-4.13(b)(2)

DRAFT STREAM CORRIDOR REGULATIONS

Stream buffer provisions were originally included with the stormwater regulation update. However, through the review process in Albany, the Commission was required to separate out its stream corridor/buffer protection standards into a separate regulatory package. This was necessary to meet the intent of NYS ECL Article 43 (the Lake George Law). Lake George draft stream corridor protection regulations have been submitted to Albany, and we hope for expedited review so we can run parallel public input tracks on both our stormwater and stream corridor initiatives.

In summary, our proposed stream corridor protections also mirror our previously discussed standards as follows:

1. 35 foot stream buffer protection/clearing standards, applying to DEC regulated streams
2. Standards for stream crossings/culverts that mirror existing updated DEC permit conditions

Since these draft stream corridor regulations have not yet been approved for release by Albany at the current time, we will not be able to share the specific regulatory language at the meeting on the 28th. However, we will discuss in detail what these draft regulations and requirements will entail and how they are proposed to work at the Commission monthly meeting on July 28, 2020, and in subsequent meetings. Quick summary below:

Stream Buffers: Development and Vegetation Cutting Standards to DEC Classified Streams

Action: To enhance stormwater runoff quality and decrease impacts on stream quality and ecology, the Commission will require a 35-foot setback for vegetative cutting and development adjacent to DEC regulated streams.

About This Change: Water flowing to Lake George from its tributary streams constitutes approximately 55% of the water residing in Lake George. As such, the quality of the water flowing in these streams greatly affects the quality of Lake George itself. A vast array of scientific studies consistently conclude that natural vegetated stream buffers provide significant nutrient reduction and water quality improvement benefits to stormwater runoff, and subsequent improvement to the overall quality of the ecology of streams.

This regulatory change applies to NYS DEC regulated streams throughout the LG watershed. The Towns of Queensbury and Bolton already administer similar regulations in their existing town codes. The following standards are proposed:

- A maximum of 100 square feet of new impervious area or 400 square feet of porous pavement (i.e. porous pavers) may be created on a site within the stream corridor.
- Within 6 feet of the high water mark of a stream, no vegetation may be removed, except that a contiguous clear-cut opening may be created. The opening shall not exceed 30% of the stream length on a site or a maximum of 75 linear feet, whichever is less.
- Between 6 feet and 35 feet from the high-water mark of a stream no woody vegetation greater than one inch in diameter at 4.5 feet above ground elevation may be removed, except that a contiguous clear-cut opening may be created as noted above.
- Where development exists within a designated stream corridor prior to the effective date of this Article, these areas are to be considered in aggregate with any proposed development, land disturbance, and land clearing such that the total development within a designated stream corridor complies with the standards above. If development within a designated stream corridor exists prior to the effective date of this Article and exceeds the standards above, it may be maintained in perpetuity.
- This regulation shall not apply to:
 - The removal of dead and diseased trees
 - Development activity directly associated with and necessary to undertake a DEC Article 15 permit (ie. stream crossing, stream restoration, etc.)

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