

## REGULATORY FLEXIBILITY ANALYSIS

### Effect on Small Business

The economy of the Lake George region is characterized by the many small businesses which are either directly in the tourism business or dependent upon it. There are no exact figures on the number of businesses, but based on membership in local commerce organizations, an estimated range for the total number of small businesses located within the Lake George Park is 650-800. Lake George has over 100 "attractions" and 25 full service marinas on the water. The Lake George Chamber of Commerce has 440 business members. Only those small businesses which undertake construction are subject to the requirements of the Commission's stormwater regulations. These businesses include resorts, motels, restaurants, marinas, gift shops and recreational activities. An important premise of the program is that the attractive qualities of Lake George generate much of the tourism demand in the region and that the protection of the Lake helps to sustain the economy and the individual small businesses.

There are three counties and twelve municipalities all or partially within the Lake George Park. Municipalities that have adopted the Commission's model stormwater ordinance presently incur expenses relating to the administration of a Stormwater Regulatory Program. Municipalities that administer their own stormwater program are the Village of Lake George, and the towns of Lake George, Bolton, and Queensbury. The additional workload and associated cost of the proposed regulatory changes are not anticipated to be significant compared with the current stormwater management oversight by these municipalities.

The ultimate use of a parcel of land being developed has little bearing on the cost of stormwater management. The key determination in cost is the area of impervious surface created and the suitability of the site based on such factors as size, soil depth and slope.

The current regulations require all entities including small businesses and local government that propose to develop land within the Lake George Park to apply for a stormwater management permit. In connection with this permit, any property owner (business or private) is required to pay an application fee (\$100 for minor projects, \$200 for major projects). All property owners are required to meet certain project design and performance standards in connection with their stormwater permit requirements. The costs of the additional measures proposed by this new regulatory change are limited to those associated with stormwater retrofits of existing development onsite and fully described in the Cost section of the accompanying Regulatory Impact Statement. Small businesses which add on to their existing facilities will be subject to these costs. The costs for projects are a function of the size of the project and existing development onsite contributing runoff. As with privately sponsored projects, local government will need to comply with regulatory criteria for stormwater management. This will result in additional expenses which are estimated for projects in the Regulatory Impact Statement.

### Compliance Requirements

The existing regulations require a permit to be applied for and received prior to most development of any land in the Lake George Park. An application for a variance or waiver is presently required in the event that an applicant seeks a permit for a non-conforming design. The proposed regulatory changes will not alter these requirements.

### Professional Services

Small businesses applying for a stormwater management permit to construct a project may require the services of an engineer or surveyor to prepare the necessary plans for such applications. However, such services are generally required for the design and construction of small business

facilities. The proposed changes, specifically the retrofit requirement, would expand the scope of work for a designer working on a project. It is not expected that the amendments to the stormwater management regulations will require any additional or unusual professional services.

### Compliance Costs

For businesses and local government, changes to existing compliance costs will be related to stormwater retrofits for “minor” projects, which are addressed in the Costs section of the RIS. Local governments that administer the Commission’s model stormwater ordinance may also have slight increases in cost associated with the review of stormwater retrofits for “minor” projects reviewed by local government staff.

### Economic and technological feasibility

The proposed modifications do not impose a significant economic or technological burden. The proposed amendments include four substantive provisions: (1) the Commission has updated the terms utilized for agricultural and silvicultural exemptions, (2) standardized setbacks for infiltration devices servicing residential projects, (3) fertilizer restrictions, and (4) retrofitting for projects meeting the Minor classification.

The requirement that a conservation plan be developed to meet the agricultural and silvicultural exemption has been in place for decades. For clarity and to reflect current practice, the Commission has updated the terms utilized for agricultural and silvicultural exemptions. As such, there would no additional cost incurred to develop this information. The Commission and the municipal stormwater programs are not responsible for approving the soil conservation plans, and so there are little if any increased costs to government anticipated with this modification.

By current LGPC stormwater regulations, all stormwater infiltration devices for projects meeting the “Major” project standard as well as those that service areas subject to vehicle traffic for “Minor” development standards must meet a 100 foot setback requirement from all water resources. The Commission proposes a standard 35 foot setback to water resources for all infiltration devices serving Major and Minor projects, and intends to maintain the 100’ setback to water resources for infiltration devices servicing areas subject to high motor vehicle traffic. If this action has any impact on project costs, it is anticipated to reduce costs. Stormwater infiltration and treatment practices have often required a variance due to the relatively large setback requirement. This major project relief is anticipated to reduce the need for variances, and would thereby potentially reduce project cost. For minor projects, the proposal represents a new minimum setback of 35’ for areas such as roofs. Given the minimum building setback of 50’ from Lake George, it is reasonable that infiltration devices may be designed outside the 35’ setback, and as such no additional costs are anticipated from this change as it relates to minor stormwater projects. If necessary, variances may be granted from the setback requirement if it presents a hardship. This modification will not create any additional review authority or burden on local government, but may relieve the number of variances required from the setback standard.

The Commission’s proposed restrictions on fertilizers within 50 feet of a waterbody are not seen to have a cost impact upon regulated parties. This prohibition will simply disallow the use of fertilizers adjacent to Lake George and its tributaries, and there is no cost associated with not using a commercial product. The cost of administering and enforcing this regulation is seen as minimal. This regulation already exists in two municipalities within the Lake George Park, and while they do receive occasional calls or complaints that require follow-up, it is not a

significant workload for their codes and planning staff.

Similar to existing regulations for Major stormwater projects (>15,000sqft of land disturbance), the proposed regulatory amendment will require that all jurisdictional projects (>5,000sqft land disturbance, or >1,000sqft new impervious area) address stormwater runoff from existing impervious areas on a property to the maximum extent practicable with a minimum volume control equal to one half inch of precipitation from existing impervious areas. Typical costs for stormwater retrofit practices can vary from almost zero (minor grading efforts) to low cost (eg. infiltration chambers). There is no requirement to obtain a licensed engineer for these practices. For a typical property, additional costs are anticipated to fall between \$0 and \$4,000. When the minimum volume control requirement of one half inch may not be met, a variance may be granted from this standard. However, in contrast with other variances within stormwater management, the proposed regulations expressly allow the granting of variances from the retrofit standard to be authorized by review staff rather than at the Commission and zoning board level, which is intended to streamline review compared with traditional administrative variance review that may involve multiple board meetings. The cost to administer this regulation, for both the Commission and for local government, is seen as minimal. The only time that this retrofit requirement would take effect is when there is an application for a stormwater permit. The estimated annual number of minor stormwater project applications equates to 5-10 projects per municipality throughout the Lake George watershed (0-1 per month on average). Based on these development numbers, it is estimated that there are roughly 50-80 minor projects in the watershed each year that are currently subject to the stormwater management requirements of 646-4, and which would be subject to the retrofit standard for minor projects. The review of the proposed minor stormwater retrofits would be a small portion of the overall project review, and is not seen as impacting significantly upon either

the Commission or the local government. LGPC staff note that the time to review the retrofit elements of a Major project currently adds an estimated 5-10% of review time per project.

### Minimizing Adverse Impacts

The overall effect of the existing and proposed regulations is to protect and enhance the water quality of Lake George and its tributaries, which will provide a positive impact upon small businesses located within the Lake George Park. This should in turn support the growth and vitality of local communities and achieve positive outcomes for local government. The regulations were drafted so as to minimize cost to regulated entities while still achieving the purposes of Environmental Conservation Law Section 43-0012. The impact on small businesses and local government was minimized by limiting the scope of these regulations to new jurisdictional construction as opposed to requiring retrofits runoff from existing structures within a specified timeframe. Small businesses could not be exempted from the rules since this would be inconsistent with the legislative mandate. Neither would it be appropriate to exempt local government projects.

### Small Business Participation

The Lake George Park Commission is a locally based state agency which meets monthly within the Lake George Park. Meetings of the Commission are open to the public and many small business operators regulatory access the Commission in this venue. Citizen members of the Commission include current and retired small business owners and employees. This helps to ensure that business perspectives are represented.

The revisions were the subject of a public informational workshop meeting of the Commission on May 15, 2017. Citizens including small business owners were afforded an opportunity to discuss the

regulations directly with the Commission members in a workshop setting. Additionally, the Commission has presented the proposed revisions to the Town Board or Planning Board of every Town and Village within the Park, and has facilitated meetings with professional designers, business owners, NGO's, and foresters. Public hearings on the topic will be set for the summer of 2020 after the rule is recorded in the State register. There will be a least one formal public hearing on the proposed revisions pursuant to the terms of SAPA section 202.