

## Rural Area Flexibility Analysis

The Lake George Park is located entirely north of the boundary of the Glens Falls Standard Metropolitan Area and therefore could be classified as a rural area. The year round population within the watershed is estimated at 9,850 people, and half of the housing is occupied less than half the year<sup>1</sup>. While the population of the region swells in summer, population declines rapidly after Labor Day, businesses close and the business and governmental infrastructure is significantly underutilized for eight months of the year. For instance, the permanent population of the Town of Lake George is 118 people per square mile. During winter months, the rural nature of the communities within the Lake George Park is particularly evident.

### 1. Types and Estimated Numbers

Public administration, especially the plowing and maintenance of public highway systems, parks and recreation facilities, is a sustaining economic force for the permanent Park population. There are twelve municipal highway maintenance facilities operated within or near the Lake George Park. Marine and water-based businesses offering repairs, refitting, sales and storage of boats is a feature of the year-round economy. Twenty local marinas have year-round operations. Small scale construction, landscape, plowing and property maintenance enterprises which serve the resorts, lakefront estates and seasonal homes also provide income for year-round residents. Public and private lake protective organizations, planning and zoning administration and lake related research are factors in the local economy, as well. Retail sales businesses are mostly seasonal. However, convenient stores and small markets are busy outlets servicing laborers and pass through travelers during the colder months.

### 2. Compliance Requirements

The rule does not establish reporting or record keeping requirements or other compliance mandates for private interests in rural areas.

### 3. Costs

There are no requirements that would result in initial or annual costs to achieve or maintain compliance for rural entities. Compliance expenses are incurred only by those entities undertaking land development in designated stream corridors. The cost for such rural entities and local government is dependent on the size and

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<sup>1</sup> Lake George Association, "Lake George Watershed Data Atlas" Lake George, NY, December 2016

complexity of the project. Since the entirety of the Lake George Park is essentially a rural area, the cost of compliance is the same for rural entities as for any other entity. The cost of compliance under various scenarios is examined in the Regulatory Impact Statement.

#### 4. Minimizing Adverse Impacts

The rule incorporates several provisions to minimize potential adverse impacts to regulated entities including rural entities.

1. Ensure that the regulations do not abridge the continued use of land and improvements thereon that are existing when the regulations take effect. The proposed rule has several clear expressions in this regard. Existing buildings, landscaped areas, uses and impervious cover are clearly exempted from the permit requirements and standards, and may be continued and maintained.

2. Address future projects on existing parcels including the expansion of existing facilities. The draft rule includes flexible standards for existing development in recognition of the fact that optimum distances for protective buffers may not be practically possible in cases where lot sizes and dimensions are a given.

3. The Commission's overarching authority to grant a variance to any provision of the proposed rule when the record supports that the impact of the strict application results in a disproportionate effect. This may from time to time relate to the concept of reasonable return on investment when land is held as a commodity in anticipation of some future return following development. However, a finding of hardship is not required for the area variance standards being referenced. Rather, the variance criteria apply a flexible standard of balancing interest of community/environmental protection and property interests. It is a benefit that the criteria for variances being employed have a well-established track record and case law history.

#### 5. Rural Area Participation

Over the last 15 years the Commission has undertaken extensive outreach on the topic of stream corridor management. As described in more detail below, from 2005 to 2009 the Commission engaged the public and multiple consultants to draft stream corridor regulations. The result of this early process was a proposed corridor that extended 100 feet on either side of perennial and intermittent streams proposed for protection. Due to public opposition concerning the size and scope of the corridors, the Commission elected to temporarily defer the proposed concept. In 2017, as part of a broader effort to improve water quality protections through updated stormwater management regulations, the Commission revisited the concept and benefits of stream buffers/corridors. In its most recent review and consideration of this topic the Commission met individually

with every municipality within the Lake George basin, held multiple public workshops, and engaged all interested stakeholder groups. The discussions with the community and the collective feedback received were very valuable to the Commission in developing the final regulatory package, which is broadly accepted.

#### Public Planning and Participation Phase 2005- 2007

In November of 2005, the LGPC held a meeting in conjunction with the Lake George Watershed Conference (now the Lake George Watershed Coalition) to discuss the content of a work plan for preparation of a Watershed Plan Governing Stream Corridor Protection and Tree Cutting. An invitation and explanation about the meeting was sent to the chief executive officer of each municipality. Attending conference members were invited to participate in the formulation of the key objectives of the plan

In accordance with the recommendations in Chazen 2005<sup>2</sup> and the advice received from Watershed Conference members, the LGPC undertook a community planning process with the goal of developing a Watershed Protection Plan Governing Stream Corridor Protection and Tree Cutting. In 2006, the LGPC retained a professional planning, engineering and landscape architect firm (hereafter “the firm”) to conduct the planning process and prepare several integrated reports. The work plan for the project included the objective of fashioning regulations and programmatic approaches to fulfill the LGPC’s authority under the two topical areas. The firm assisted in conducting a series of five facilitated planning workshops, perform a literature review, conduct a “build-out” analysis, prepare a visual assessment, prepare draft and final impact statements and develop a regulatory impact statement and related State Administrative Procedures Act (SAPA) documents. Outreach work to various interest groups began in the Fall of 2006.

On behalf of the LGPC, the firm developed a contact list. The contact list included chief elected officers (town supervisor/mayor) governing board members, planning and zoning board members and land use/zoning officials, environmental organizations, State agency representatives, chamber of commerce and similar business organizations, individual developers and others. During the final quarter of 2006, the firm began a series of one-on-one meeting with groups and also began a coordinated public outreach and flow of initial materials.

During 2006 and 2007, the firm, at the LGPC’s request, held five facilitated workshop meetings. More than 30 organizations were represented at one or more of the workshops including municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities, many of whom attended and participated. The outputs of the meetings were documented in a series of status reports developed by the firm.

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<sup>2</sup> Lake George Park Commission Tree Clearing and Stream Corridor Protection Planning Evaluation. The Chazen Companies (2005).

On December 4, 2007, the LGPC invited all of the stakeholder representatives (including local elected officials) to attend a meeting of the LGPC to hear about and discuss a preliminary draft of the regulations.

#### Draft Generic Environmental Impact Statement (DGEIS) Phase

Beginning in 2008, the LGPC decided to retain a new consultant with special expertise to assess watershed issues and stream buffers. Early in 2008, the LGPC retained Center for Watershed Protection (CWP) to take up where the project left off, to prepare an environmental impact statement and draft regulations. CWP held two public meetings in May and June 2008 to gather impressions from stakeholder organizations and the public about the issues. The invitees included a growing list of stakeholders including municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities, many of whom attended and participated. The DGEIS was the subject of internal LGPC review during the Fall of 2008 and was released on January 5, 2009.

The LGPC formally accepted the DGEIS as complete on January 27, 2009 and set a period for public comment until March 15, 2009. The SEQRA hearing consisting of a morning/afternoon session and an evening session was held on February 24, 2009.

The LGPC received and responded to more than 400 comments on the DGEIS the majority of which dealt with several topics of the regulations. These comments initiated subsequent revisions to the draft rule text as described in the Alternatives section of the Regulatory Impact Statement. The LGPC accepted the Final Generic Environmental Impact Statement on May 26, 2009.

#### 2016 to Present

Due to public comments concerning the spatial extent of the stream corridors and what constituted a stream, in 2017 the Commission modified its proposal to reflect a smaller stream corridor and more clear guidance on what streams would be regulated. Specifically, the proposal was modified to restrict the group of protected streams to perennial AA-special streams mapped by the DEC, and the definition of a stream corridor was modified to include the area within 35' of a stream, significantly reduced from the previously proposed 100' setback. The Commission has presented and refined this updated stream corridor model through dozens of discussions and meetings with the community. Parties involved and consulted in the process included each of the municipalities' planning and/or town boards in the basin, the local chamber of commerce, local foresters and loggers, professional designers and planners, environmental advocacy groups, individual citizens, conservation

districts, and our sister agencies DEC and APA. The outreach effort has served to improve the regulatory language and foster broad acceptance of the concepts.