

6 NYCRR 646-4.2
Section 646-4.2. Purpose and intent

The purpose of this Subpart is to protect and safeguard the general health, safety, and welfare of the public residing in or visiting the park by preserving and protecting the quality of the ground and surface waters of the park. This Subpart has the following objectives: prevent any increase in stormwater runoff from any development in order to reduce flooding, siltation and streambank erosion; prevent any increase in pollution caused by stormwater runoff from development which would otherwise degrade the quality of water in Lake George and its tributaries and render it unfit for human consumption, interfere with water based recreation or adversely affect aquatic life; and ensure that the total annual volume of surface water runoff which flows from any specific site during and following development shall not exceed that which prevailed prior to development.

6 NYCRR 646-4.3
Section 646-4.3. Applicability

(a) General applicability. This Subpart shall apply to any municipality lying wholly or partially within the park, the commission and all development within said municipalities except development which is expressly exempt pursuant to section 646-4. 6 of this Subpart. Stormwater management plans and stormwater regulatory programs shall apply to all land within the park. Their application to other areas within a municipality is encouraged in order to protect other water resources, but is not required by this Subpart.

(b) Applicability under municipal jurisdiction. A stormwater Regulatory Program is applicable to all development projects within the municipality and within the Lake George Park except for projects specifically exempted by the program. In any municipality where there is a program in effect approved pursuant to this Subpart, the rules for the applicability of the program to projects for which applications have previously been filed, or which have received other required permits, shall be set forth in the program.

(c) Applicability under commission jurisdiction. In any municipality where the commission has assumed jurisdiction over stormwater management pursuant to Environmental Conservation Law, section 43-0112(3) and sections 646-4.5 and 646-4. 14 of this Subpart, a permit from the commission shall be required in accordance with sections 646-4.5, 646-4. 7 and 646-4. 8 of this Subpart. The design standards for stormwater controls contained in this Subpart shall be applicable in the review of permit applications. Permit applications shall be processed in accordance with the provisions of Subpart 645-5 except that the project classifications contained herein shall govern.

6 NYCRR 646-4.4
Section 646-4.4. Definitions

(a) Terms defined in section 645-2.1 of this Title shall have the meanings set forth in that section. Terms not defined in this Subpart shall have their usual and ordinary meanings.

(b) The following terms shall have the stated meanings when used in this Subpart or in documents prepared or reviewed by the commission.

(1) Agricultural activities means the activities of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, and using land for growing agricultural products, but shall not include the construction of new structures associated with agricultural activities.

(2) Base flow means the stream discharge from groundwater runoff.

(3) Blind drain means a drain consisting of an excavated trench refilled with pervious materials, such as coarse sand gravel or crushed stone through which water percolates and flows toward an outlet, often referred to as a French drain.

(4) Building footprint means that two-dimensional plane area of a building or structure which results when the height dimension is removed and which shows an aerial view of said building or structure including garages, sheds, porches, eaves, covered breezeways, entryways and other similar attached appurtenances.

(5) Catch basin means an inlet structure for the collection of stormwater from impervious surfaces designed with a sump to trap sediment.

(6) Commission means the Lake George Park Commission.

(7) Department means the Department of Environmental Conservation of the State of New York.

(8) Detention means the practice and procedures associated with the delayed release of stormwater so as to reduce peak flow, maintain base flow, increase opportunity for recharge to groundwater, and reduce opportunity for surface runoff and soil erosion.

(9) Detention-structure means a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

(10) Develop land means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial or institutional construction or alteration.

(11) Development means any building, construction, expansion, alteration, modification, demolition or other activity, including land clearing, land disturbance, grading, roadway construction or expansion, mining or mineral extraction which materially changes the use or appearance of land or a structure, or the intensity of the use of land, or the creation of a subdivision which may result in such activity, but not including interior renovations to a structure, a change in use of a structure which results in no land disturbance.

(12) Development area or site means: any parcel of property or lot or combination of contiguous lots which:

(i) are in common ownership; or

(ii) are in diverse ownership where development is to occur in common. For the purposes of this Subpart, contiguous lands shall include those separated by a public highway.

(13) Disturbed area means that part of a development site area where actual land disturbance, vegetation removal, or construction of buildings, structures or utilities will occur or has occurred.

(14) Drainage area means all of the area of land contributing runoff flow to a single point.

(15) Erosion means the wearing away of the land surface by water, wind, or ice or the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

(16) Fertilizer means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content, and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, agricultural liming material, wood ashes, gypsum and other products exempted by regulation of the Commissioner of Agriculture and Markets.

(17) Filter strip means a strip of permanent vegetation above ponds, diversion terraces and other structures to retard flow of runoff, causing deposition of transported material, thereby reducing sediment flow.

(18) Flow attenuation means prolonging the flow time of runoff to reduce the peak discharge.

(19) High traffic area means a road, parking area, or driveway used for motorized vehicular travel, except those servicing four (4) or fewer residential lots or units.

(20) Hydrograph means a graph showing variation in stage (depth) or discharge of a stream of water over a period of time.

(21) Impervious area means all impermeable surfaces that cannot effectively infiltrate rainfall. This includes paved, concrete, packed earth and gravel surfaces (i.e. parking lots, driveways, roads, runways and sidewalks); building rooftops and other miscellaneous impermeable structures such as patios, pools, and sheds.

(22) Infiltration means the downward movement of water from the surface to the subsoil. Infiltration rate is typically expressed as inches per hour.

(23) Infiltration device means a stormwater recharge area, drywell, recharge basin, retention basin, porous pavement, or any other engineered structure designed to infiltrate stormwater.

(24) Infiltration rate means a soil characteristic determining or describing the maximum rate at which water can enter the soil under specified conditions, including the presence of an excess of water.

(25) Land disturbance or land clearing means grading, digging, cutting, scraping, excavating, removing of soil, placement of fill, paving or otherwise covering, construction, substantial removal of natural or human-made vegetation, replacement of natural vegetation with lawn or other human-made vegetation, demolition or other removal of human-made features, or any activity which bares soil or rock. For the purposes of calculating the square footage affected by any development in order to determine a project's classification, all affected areas of the development site shall be considered in aggregate whether or not the affected areas are contiguous, however the calculation shall not include areas used for (i) approved wastewater treatment systems, (ii) stormwater retrofit projects, or (iii) infiltration devices for new development. Infiltration devices located in areas that would otherwise be impacted by development activity shall be considered in the calculation of land disturbance (eg. porous pavement, infiltration chambers beneath a parking lot).

(26) Landscaped area means an area of vegetation which has been actively maintained as a lawn, garden, hedge, planting bed or rain garden.

(27) Lawn means any non-crop land area that is covered by any grass species. Lawn or non-agricultural turf does not mean flower or vegetable gardens, pasture, hayland, trees, shrubs, turf grown on turf farms, or any form of agricultural production.

(28) Mulch means a natural or artificial layer of plant residue or other materials, such as sand or paper, on the soil surface which reduces erosion, maintains soil moisture and facilitates seed germination.

(29) Municipality means a town or village located in whole or in part within the park.

(30) Nonpoint source means any source from which pollutants are or may be discharged which is not a point source.

(31) Offering plan means a prospectus as required by section 352-e of the General Business Law.

(32) Peak flow means the maximum instantaneous flow of water from a given condition at a specific location.

(33) Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which pollutants are or may be discharged.

(34) Pollution means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(35) Pollution source controls means the structures and practices used in reducing contaminants from point and/or nonpoint sources.

(36) Porous pavement means an open graded paving material which allows water to pass through it.

(37) Pre-development means those site conditions which existed prior to the commencement of any activity regulated by this Subpart.

(38) Project means any land use or development activity proposed by an applicant which is subject to this Subpart.

(39) Project life means the anticipated or actual time a project will be used, utilized or remain in functional existence.

(40) Qualified stormwater professional is a person that is knowledgeable in the principles and practices of stormwater management and treatment, such as a licensed Professional Engineer, Registered Landscape Architect or other commission endorsed individual(s). Individuals preparing stormwater design plans must have an understanding of the principles of hydrology, water quality management practice design, water quantity control design, and, in many cases, the principles of hydraulics.

(41) Rainfall intensity means the rate at which rain is falling at any given instant, usually expressed in inches per hour.

(42) Rational method means a widely accepted method for calculating stormwater runoff, volume and rates of flow for stormwater shed areas up to twenty acres.

(43) Redevelopment means any activity which alters a previously developed site.

(44) Residential firewood harvesting means the removal and processing of trees to be used as a heating fuel source, with such harvesting activity not to result in the removal of greater than five (5) full cords of firewood during any calendar year; and further not to include the sale or export of any firewood or wood products. Residential firewood harvesting shall not include (a) the creation of a wood road, log landing, or skid trail, (b) stump removal, brush removal, or grubbing, or (c) road construction, excavation, land clearing or land disturbance for development.

(45) Retention means the practice of holding or directing stormwater except that portion evaporated or bypassed in an emergency, in or to a given area so that all the stormwater will be infiltrated into the subsoil.

(46) Retention pond means a recharge basin which is designed to infiltrate all of the stormwater it receives and which normally has no outflow.

(47) Revegetation means the natural or artificial replacement of vegetation on a project site to reduce erosion, decrease runoff, improve water quality and improve aesthetic qualities of exposed soils.

(48) Runoff controls means those structures and/or devices, including, but not limited to, dry wells, porous pavements, ditches, wetlands, holding ponds, recharge areas, and retention/detention basins which recharge groundwater and provide for peak flow attenuation.

(49) Significant habitat means that area or region important in fulfilling the daily or seasonal habitat requirements of any species of plant or animal designated as endangered, threatened, rare, or of special concern by the department pursuant to Environmental Conservation Law, sections 11-0535 and 9-1503 and the department's regulations thereunder, or by any individual species or any group or natural community of nonlisted plants and animals of significant economic, recreational, aesthetic, ecological or scientific importance.

(50) Siltation trap means a structure designed to trap sand and silt sized particulate matter from stormwater.

(51) Silviculture activity means the practice of controlling the establishment, composition, constitution, and growth of forests. Silvicultural activities include: site preparation for forest regeneration; reforestation (including subsequent cultural treatment); thinning; prescribed burning; pest and fire control; harvesting operations; surface drainage; harvest related road/trail construction and maintenance; and nursery operations. Tree removal in preparation for development or other conversion to a non-forestry use is not silviculture.

(52) Site. See development area, paragraph (12) of this subdivision.

(53) Soil conservation plan means a document, which identifies best management practices regarding erosion and sediment controls to be employed for a proposed agricultural or silviculture activity. The plan shall include such form(s) as may be

provided by the Commission. The plan shall include a scaled map of the project site depicting all waterbodies onsite and within 35' of all areas to be disturbed, and all proposed land disturbances including proposed stream crossings, agricultural fields, and areas proposed for silviculture including logging roads and landings.

(54) Stormwater means water produced by precipitation including snow melt which does not evaporate and which flows over a natural or human-made surface or into a natural or human-made channel.

(55) Stormwater concept plan or SCP means a report prepared in accordance with section 646-4.8(b) of this Subpart by or on behalf of a project sponsor which includes analysis of a site's environmental characteristics, potential impacts of the development on water resources and the effectiveness and acceptability of the proposed stormwater management system in order to determine the types of stormwater measures necessary for the proposed development.

(56) Stormwater control measures means all those natural and man-made structures, infiltration devices, erosion controls, systems, facilities, agreements, institutional arrangements, and financial provisions to manage stormwater including, but not limited to, any of the following: dry wells, pits of crushed rock, infiltration trenches, retention ponds, detention ponds, blind ditches, swales, pipes, culverts, natural depressions, porous paving, recharge areas, and basins.

(57) Stormwater control report or SCR means a report prepared in accordance with section 646-4.8(b) of this Subpart by or on behalf of a project sponsor which evaluates the quantity and quality of stormwater runoff resulting from the proposed project. The report shall include a set of drawings and other documents to provide all the necessary information and specifications pertaining to stormwater management and associated pollution control for a particular site. The SCR is intended to implement the SCP.

(58) Stormwater design plan means the written narrative, maps, and diagrams prepared for the purpose of runoff control on a specific development site, based upon survey and analysis of the site.

(59) Stormwater management means:

- (i) for quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by human-made changes to the land; and
- (ii) for qualitative control, a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface run-off.

(60) Stormwater management maintenance agreement means an agreement between the project sponsor and some other entity to ensure adequate maintenance and repair of the stormwater management system over the life of the project.

(61) Stormwater management plan or plan means a local stormwater management plan adopted by a municipality pursuant to this Subpart and Environmental Conservation Law, section 43-0112.

(62) Stormwater recharge area means an area of land used for the purpose of infiltrating stormwater.

(63) Stormwater regulatory program or program means a local stormwater regulatory control program adopted by a municipality pursuant to this Subpart and Environmental Conservation Law, section 43-0112.

(64) Stormwater retrofit project is an activity undertaken for the purpose of reducing stormwater runoff volume, velocity, and/or pollutants generated from pre-development conditions, and which is undertaken or approved by the municipality in which the project is located, the county Soil and Water Conservation District, the Commission, or an entity approved by the Commission.

(65) Stormwater runoff means any surface water runoff or runoff in channels which results directly either from a rainstorm or from the melting of snowpack.

(66) Subcatchment means an identifiable drainage area contained within a larger watershed or drainage area.

(67) Subdivision means a division of any land into two or more lots, parcels or sites, whether the new lots are adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy by any person, including the conveyance of lands in common ownership which are divided only by a road or utility right-of-way. Creation of a condominium or townhouse project shall be considered a subdivision. This definition shall not apply to conveyances of small parcels of land to correct a boundary of a lot, so long as such conveyance does not create additional lots.

(68) Surface water runoff means water which flows over the land and does not percolate into the soil, and which may run off as a sheet, rill or stream flow.

(69) Time of concentration means the time required for water to flow from the most remote point of a watershed, in a hydraulic sense, to the outlet.

(70) Water body means any lake, pond, river, stream, intermittent stream or wetland.

(71) Water table means the upper surface or top of the saturated portion of the soil or bedrock layer, indicating the upper extent of groundwater.

(72) Watershed means the total drainage area contributing runoff to a single point.

(73) Wetland means an area designated as a freshwater wetland by the New York State Adirondack Park Agency.

6 NYCRR 646-4.5
Section 646-4.5. Prohibitions

(a) Wherever the commission has assumed jurisdiction for stormwater management within the Lake George Park pursuant to section 43-0112(3) of the Environmental Conservation Law and unless otherwise exempted herein, no person shall cause or create any new impervious surface such as pavement, blacktop, macadam, packed earth and crushed stone without first receiving a permit issued by the commission pursuant to this Subpart.

(b) No person or owner of real property located within the Lake George Park shall create or maintain a condition, which due to a human disturbance of land, vegetative cover, or soil, may result in the erosion of soil from the site or into any water body. The commission shall notify a property owner of such condition on his property and shall afford a reasonable time period to correct any such condition before a violation shall be deemed to exist.

(c) Except for the activities exempted pursuant to section 646-4.6 of this Subpart, no person shall cause or create a land disturbance without first receiving a permit from the commission pursuant to this Subpart.

(d) No person shall fail to comply with conditions and plans of a stormwater management permit authorized by the commission pursuant to this Subpart.

(e) No person shall cause or create a condition of flooding, erosion, siltation or ponding resulting from failure to maintain previously approved stormwater control measures where such condition is injurious to the health, welfare or safety of individuals residing in the park or injurious to any land within the park. The commission shall notify a property owner of such condition on his property and prescribe measures necessary to reestablish effective performance of the approved stormwater control measures. The commission shall afford such property owner a reasonable time period in which to correct any such condition, before a violation is deemed to exist.

(f) No person shall build, alter or modify a stormwater control measure without first receiving a permit from the commission.

(g) No person shall apply or authorize the application of lawn fertilizers within fifty (50) feet of any water body, except for newly established lawns during their first growing season or situations in which a reliable soil test indicates a need for the addition of fertilizer.

6 NYCRR 646-4.6
Section 646-4.6. Permit Exemptions

(a) The following activities are exempt from the permit requirements of section 646-4.5

- (1) emergency repairs and the ordinary maintenance, cleaning, and/or repair to any stormwater control measure;**
- (2) land disturbance and land clearing of less than 5,000 square feet on a site;**
- (3) creation of new impervious areas of less than 1,000 square feet on a site;**
- (4) maintenance of landscaped areas**
- (5) agricultural activity which is consistent with a soil conservation plan developed in accordance with the New York State Soil and Water Conservation Committee's "Agricultural Best Management Practice Systems Catalogue", which plan has been provided to the Commission not less than 15 calendar days in advance of any related land disturbance;**
- (6) silvicultural activity which is consistent with a soil conservation plan developed in accordance with the NYS Forestry Best Management Practices for Water Quality and which plan is provided to the commission not less than 15 calendar days in advance of any related land disturbance**
- (7) residential firewood harvesting that is compliant with Stream Corridor Regulations at 646-5 and NYS Forestry Best Management Practices**
- (8) any building, construction or land clearing occurring outside the drainage basin of Lake George from which all stormwater discharged from the development site is discharged outside of the basin;**
- (9) activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family; and**
- (10) construction of an approved wastewater treatment system.**

6 NYCRR 646-4.7

Section 646-4.7. Project classification in stormwater regulatory programs for the purpose of review

(a) Minor projects. The following development activities shall be considered to be minor projects:

(1) Any building, land clearing or development activity affecting less than 15,000 square feet.

(2) Creation of a two-lot, three-lot or four-lot subdivision which may result in the construction of no more than one single-family residential structure and related accessory structures per lot, and will require land clearing or alteration activities of less than 15,000 square feet per lot and less than 15,000 square feet total for any subdivision road.

(3) Any building, alteration or modification of a stormwater control measure, excluding maintenance, cleaning or repair of such stormwater control measure.

(b) Major projects.

(1) Any project not expressly exempted from regulation or defined as a minor project shall be a major project.

(2) The following may be considered to be major projects:

(i) Any part of the activity listed in paragraph (a)(1), (2) or (3) of this section which occurs on:

(a) soils of high potential for overland or through-soil pollutant transport;

(b) an area with a slope of 15 percent or greater when measured in any direction over a distance of 100 feet from the center of the proposed building site; or

(c) an area with a soil percolation rate slower than 60 minutes per inch.

(ii) Any minor project may be treated as a major project if such treatment is desirable due to specific site limitations or constraints, anticipated environmental impacts, or the need or advisability of additional public notice and comment. When determining whether to treat a minor project as a major project, the criteria to be considered shall include, but shall not be limited to, whether the site lies within or substantially contiguous to a:

(a) a critical environmental area established pursuant to SEQR;

(b) a wetland;

(c) a designated stream corridor, See 6 NYCRR 646-5;

(d) an area of significant habitat for any wildlife or plant species; or

(e) an area of particular scenic, historic or natural significance. The project sponsor of a minor project that will be treated as a major project shall be given a written statement of the reasons for such a determination.

6 NYCRR 646-4.8

Section 646-4.8. Permit application procedures in stormwater regulatory programs

Stormwater permit applications shall be processed in accordance with Subpart 645-5 of this Title.

(a) **General application requirements.** The following shall be required to be part of any application for a stormwater management permit:

- (1) A complete application on such form as may be prescribed.
- (2) The appropriate application fee.
- (3) When a project requires a permit from any other agency, a list of all such permits which are required, a statement of the status of each such permit application, and a statement of the SEQR status of the action.
- (4) Copies of applications for all required wastewater management permits, subdivision approvals, site plan review or special use permits and Adirondack Park Agency permits.
- (5) The real property tax map section, block and lot number of each lot included in the proposed project.
- (6) The names and legal mailing addresses of all landowners adjacent to the project site. For major projects, the names and legal mailing addresses of all landowners within 500 feet of the project site.
- (7) A detailed plot plan which shows the site topography, the location and dimensions of all existing and proposed structures and impervious surfaces, water bodies, septic systems, wells, and stormwater control devices on the site and within 100 feet of the site.
- (8) A general location map suitable to direct officials reviewing the application to the project site.

(b) **Optional preliminary review for major projects.** The following information may be required to be submitted for a preliminary or sketch plan review of applications for major projects:

- (1) A stormwater concept plan (SCP). The SCP shall include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of the proposed development on water resources and the effectiveness and acceptability of measures proposed for managing stormwater runoff. Sufficient engineering analysis shall be performed and provided to show that the stormwater control measures in the plan are viable and capable of managing runoff from the site in

compliance with these regulations and the municipality's stormwater management plan and regulatory program. All anticipated development of the site and phases of the project, both present and future, shall be addressed in the SCP. The intent of this conceptual planning process is to determine the type of stormwater measures necessary for the proposed project. The SCP shall include any modifications to the proposed project necessary to achieve the required level of stormwater management. In order to ensure adequate planning for management of runoff from future development, a SCP may be required to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(2) On a site with pre-development, an applicant shall be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Subpart to the maximum extent practicable. Such measures shall also include those measures reasonable and necessary to, at a minimum, infiltrate the runoff from the first one-half inch of precipitation from any storm event for all areas within the site which have previously been developed.

(c) Additional requirements for major projects. The following additional requirements are applicable to major projects.

(1) A stormwater control report (SCR) shall be submitted which evaluates the quantity and quality of stormwater runoff resulting from the proposed project for all phases, both present and future, and if required, for the maximum potential runoff from the site if it were to be developed to its maximum potential under existing zoning. The stormwater control report shall be consistent with, and shall be reviewed on the basis of the approved SCP if one was required.

(2) The SCP and SCR shall be prepared by a qualified stormwater professional, who shall be employed by the applicant or developer to design and supervise the installation of all stormwater management facilities. Stormwater management shall be within the area of expertise of the particular individual or firm performing the design and construction supervision, and if requested, that individual or firm shall furnish a listing and description of all stormwater management projects designed or supervised by them within the past five years.

(d) Contents of stormwater control report (SCR). An SCR shall contain, at the minimum, the following information:

(1) A description of the project site and surrounding area within 500 feet as it exists prior to the commencement of the project; a location map; description of the watershed of the subcatchment and its relation to the project site; soil types and descriptions on the site and surrounding area; topography of the project site and surrounding area; surface characteristics including percent cover by asphalt, concrete, crushed stone, grasses, brush, and trees; current land use including all

structures, and characteristics of the shoreline and its development, if applicable; drainage patterns including streams, ponds, culverts, ditches, and wetlands; and locations of utilities, roads, and easements.

(2) A detailed description of the proposed project including surface characteristics; proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading; and construction cost estimates of stormwater management structures.

(3) Hydrologic and hydraulic computations of stormwater volume and flow for existing and proposed conditions shall be performed. Such computations shall include:

(i) description of the design storm frequency, intensity and duration;

(ii) time of concentration;

(iii) soil curve numbers or runoff coefficients;

(iv) peak runoff rates and total runoff volumes for each watershed area or subcatchment area;

(v) infiltration rates;

(vi) culvert capacities;

(vii) flow velocities;

(viii) data on the increase in rate and volume of runoff for the 10-year storm and on the change in the rate of runoff for the 2-, 10-, 25-, 50- and 100-year storms;

(ix) documentation of sources for all computation methods and field test results; and

(x) sufficient information to demonstrate that the proposed development, with its necessary stormwater controls, has been designed to preserve and maintain the base flow in all streams passing through, adjoining or receiving runoff from the site.

(4) A description of how the stormwater control measures for the project will provide the best available pollutant removal technology.

(5) A detailed description of and plans of, stormwater and erosion control measures including:

- (i) proposed containment facilities and structures;**
- (ii) calculations of infiltration area required;**
- (iii) calculation of retention and/or detention/retention storage requirements and storage volume provided;**
- (iv) calculation or documentation of infiltration rate;**
- (v) calculation for release rate controls (orifice or pipe size);**
- (vi) description of pollution control measures such as filter strips, sand filters, infiltration;**
- (vii) provision for emergency overflow; and**
- (viii) measures taken to obviate or reduce the need for runoff control such as use of porous pavement, or the minimization of land clearing or paving.**

(6) Drainage maps at a scale specified by the commission showing existing and proposed conditions and contours, including the watershed area and subcatchment boundaries, acreage, inlet and outlet points of streams, culverts and drainage ditches, surface features, existing and proposed structures, buildings, pavement, flow directions, existing and proposed storm sewers, streams and other drainage channels, water quantity and quality control structure including retention basins and infiltration trenches, and a location map showing the entire watershed area and indicating the project site.

(7) A certification that the stormwater control measures as designed and presented in the SCR will function adequately, will not adversely affect adjacent or downstream waters or properties, and have been designed in accordance with these regulations and the provisions of Environmental Conservation Law section 43-0112. The report and plans shall bear the signature of the qualified stormwater professional executing the above certification.

(8) A project schedule which shall indicate the proposed starting and completion dates for all major work phases including, but not limited to, clearing and grading, road construction, utility placement, septic systems, stormwater control measures, wharf construction, pouring or laying of footings and foundations, building construction, and interim and permanent revegetation. Particular emphasis shall be placed on those elements of the schedule relating to stormwater runoff and erosion control. In general, the stormwater control measures shall be installed first in the construction stages of a project to minimize the impacts associated with construction. Further, the project schedule shall take into account appropriate seasonal limitations for temperature and weather sensitive operations. Special measures or procedures may

be required to undertake land disturbance activities occurring between October 15th and April 15th.

(9) A maintenance schedule which includes:

(i) the construction costs related to stormwater control;

(ii) the proposed stormwater control maintenance program and annual costs of implementing such;

(iii) identification of the party or parties responsible for maintenance of the system over the life of the project;

(iv) a copy of any maintenance agreement; and

(v) identification of the party or parties responsible for correcting failures or inadequate function of stormwater control measures and responsible for assuming control of the measures in the event of failure to properly maintain the system.

(e) Application inspections. Each application shall contain the written consent of the landowner that site inspections, tests, and evaluations as are deemed necessary to verify site data contained in the application may be conducted. Such data shall include, but are not limited to, soil type, topography, depth to seasonal high groundwater, depth to bedrock and distance to surface bodies of water. During the site inspection one or more deep test holes and percolation tests may be required.

6 NYCRR 646-4.9

Section 646-4.9. Design requirements and performance standards for stormwater regulation

Each municipality's stormwater regulatory program shall include design requirements and performance standards which shall be not less protective than the following:

(a) Minor projects. The following requirements shall apply to minor projects:

(1) Stormwater shall be managed on-site using stormwater control measures designed to afford optimum protection of ground and surface waters. Stormwater control measures shall be selected by giving preference to the best management practices for pollutant removal and flow attenuation. Stormwater may be calculated in accordance with the methodology in paragraph (b)(1) and subparagraph (b)(3)(i) of this section or, in the alternative, at a flat rate of 1.5 gallons of stormwater for every square foot of net increase in impervious area. Net increase is the difference between pre-development and post-development conditions. All water from newly created impervious areas which would otherwise runoff the parcel shall be directed to an infiltration device. Location of the infiltration device shall be determined based upon soil test results.

(2) Stormwater control measures may include, but shall not be limited to, drywells of precast concrete, pits of crushed rock lined with geotextile fabric, and infiltration trenches. Such measures may also include natural and human made landscape features such as depressions, blind ditches, retention ponds, swales and others. Inlets to infiltration devices shall be protected from sediment at all times in order to maintain their capacity.

(3) Infiltration devices shall not be installed up gradient within 20 feet of the subsurface treatment system of a wastewater treatment system.

(4) Infiltration devices and buildings shall be located to maintain maximum attainable horizontal distance separation from wells, wetlands and waterbodies. Pumping stormwater shall not be permitted.

(5) The bottom of any infiltration device shall be a minimum of two feet above seasonal high ground water mark and two feet above bedrock.

(6) Temporary erosion controls shall be required to prevent siltation of waterbodies during construction.

(7) Stormwater control measures proposed to be installed at locations with slope > 15 percent before grading, soil percolation rate slower than 60 minutes per inch or which require placement of fill to meet vertical distance separations specified in this Subpart shall be designed by a qualified stormwater professional.

(b) Major projects. The following additional requirements shall apply to major projects:

(1) Methodologies for determination of runoff volume. Stormwater volumes and rates of flow shall be calculated using the following methods:

(i) for small watershed areas (up to 20 acres), any widely accepted method including the rational method may be used; and

(ii) for larger watershed areas any widely accepted method other than the rational method may be used.

(2) Design requirements for erosion controls.

(i) Erosion control shall be provided for all disturbed areas in accordance with with the most recently published New York State Standards and Specifications for Erosion and Sediment Control. The temporary erosion control measures shall be maintained continuously until permanent control measures are in service. Infiltration devices shall be protected from siltation during the period of construction and until the site is successfully revegetated by use of silt screens, inlet protection devices, sediment detention ponds or other suitable erosion control measures.

(ii) Staging of construction to facilitate erosion control shall be required. Only those areas where construction is actively occurring shall remain open and unvegetated. All areas that are not within an active construction area shall be mulched and stabilized or shall be mulched and revegetated. An active construction area is defined as one that has seen substantial construction within the past seven calendar days. Mulching or revegetation for erosion control shall be completed within 10 days following the last substantial construction activity.

(3) Design requirements for stormwater control measures.

(i) Stormwater control measures shall be designed so that there will be no increase in runoff volume from a 10-year frequency/24-hour duration storm event following development over the predevelopment volume.

(ii) For storm events exceeding the 10-year design storm, the stormwater control measures shall function to attenuate peak runoff flow rates for a 25-year/24 hour frequency storm to be equal to or less than predevelopment flow rates. For development greater than five acres, stormwater control measures shall function to attenuate peak runoff flow rates for a 100-year/24 hour, storm to be equal to or less than pre-development flow rates. Attenuation of the 100-year storm is intended to reduce the rate of runoff from development to prevent expansion of the 100-year flood plain so as to alleviate flooding of improved properties and roadways. The minimum requirement for peak flow

attenuation can be waived for the 100-year storm event where it can be proven that downstream flooding is not a concern, such as where excess stormwater runoff is discharged to Lake George or to a regional stormwater facility designed to handle additional volume and peak discharge. The cumulative effect of all proposed development projects within the watershed should be considered in making this determination. Rainfall intensity curves for Lake George, NY shall be used in the design of these stormwater control measures.

(iii) Infiltration devices shall be designed such that the bottom of the system will be a minimum of two feet above the seasonal high groundwater level and bedrock to be realized following development. Where compliance with this requirement would prevent compliance with subparagraph (b)(3)(v) of this paragraph, compliance with this requirement may be waived. This provision shall not apply to wet ponds and similar stormwater control measures which are designed to be built in the saturated soil zone.

(iv) Stormwater recharge areas shall be located a minimum of 100 feet from the subsurface treatment system of a wastewater treatment system unless it is demonstrated that a lesser separation will not adversely affect the functioning of such leach fields.

(v) Infiltration devices shall be designed to extend a minimum of 10 percent of the infiltration surface area below the prevailing frost depth of four feet (whichever is greater) in order to provide infiltration during winter months.

(vi) The design of all infiltration devices shall depend on the infiltration capacity of the soils present at the project site. The design infiltration rate shall be based on the results of hydrogeologic studies performed by the applicant during preparation of the Stormwater Control Report. The studies shall include test pits or borings located to present a clear picture of geologic and hydrologic conditions existing at the site and the areas, both on and off the site, affecting, or to be affected by, the development. A minimum of three subsurface excavations shall be conducted and the results shall be included in the SCR. Interpretive logs of all excavations shall be submitted with the report. Hydrogeologic interpretations and conclusions shall be developed by qualified persons only. Following design of infiltration devices, additional subsurface investigations to confirm soil and groundwater conditions will be required in the areas proposed for infiltration devices. The design of any project or development shall ensure that the ability to manage stormwater is not affected by the placement of structures on those soils or locations best suited for stormwater management purposes.

(vii) All stormwater control facilities shall be designed to completely drain or return to design levels in accordance with the following: infiltration basin 5 days; infiltration trench 15 days; dry well 15 days; porous pavement 2 days; vegetated depression 1 day.

(viii) Pretreatment devices such as sediment traps, detention/stilling basins, filter strips, grassy swales, or oil/water separators shall be provided for runoff from paved areas or other areas subject to human-induced pollution including grease and oils, fertilizers, chemicals, road salt, sediments, organic materials and settleable solids, which shall be sufficient to remove pollutants from the runoff.

(ix) Stormwater control measures shall, at a minimum, incorporate the best available pollutant removal technology, which shall mean that which constitutes appropriate and cost effective means for removing pollutants from runoff so that the resulting treated stormwater will not degrade the water quality of any water body.

(x) Stormwater control measures shall be designed to preserve and maintain the base flow in all streams passing through, adjoining or receiving runoff from the site.

(c) General requirements for major and minor projects. The following requirements shall apply to major and minor projects:

(1) Projects shall comply with stream corridor standards at 646-5.

(2) Infiltration devices shall be located a minimum of 35 feet from Lake George and any downgradient drinking water supply or waterbody. Infiltration devices for high traffic areas shall be located a minimum of 100 feet from Lake George and any downgradient drinking water supply or water body. A separation of more than 100 feet may be required in cases where contamination of the water supply is possible due to highly permeable soils, shallow groundwater and similar situations. The separation distance for infiltration devices servicing high traffic areas shall be minimum of 50 feet from upgradient water supplies. Designs shall mitigate the possible adverse effects that groundwater recharge will have on adjacent wells, water supplies, wastewater treatment systems, buildings, roadways, properties and stormwater control measures. This design requirement shall not prohibit the creation of up to 400 square feet of pervious hardscape (i.e. porous pavers) for non-high traffic areas within 35 feet of Lake George and any downgradient drinking water supply or waterbody.

(3) Stormwater control measures shall include such other measures as are deemed necessary to prevent any increase in pollution caused by stormwater runoff from development which would otherwise degrade the quality of water in Lake George and its tributaries, render it unfit for human consumption, interfere with water-based recreation or adversely affect aquatic life.

(4) Emergency overflow provisions shall be made as necessary to prevent erosion, flooding, and damage to structures, roads and stormwater control measures.

(5) Stormwater control measures and development shall be designed so as to minimize adverse impacts to water bodies, minimize disturbance of water bodies, minimize land clearing, minimize the creation of impervious surfaces, and to maximize preservation of natural vegetation and existing contours.

(6) Development which involves the creation of areas subject to intensive landscape maintenance such as: golf courses, public parks and botanical gardens, shall require that a pest control and fertilizer management plan shall be prepared and included with the permit application.

(7) Development that involves structural components, such as retaining walls or dams, may require design and certification by a licensed professional engineer.

(8) On a site where pre-development exists, an applicant shall be required to undertake a stormwater retrofit project to control existing stormwater runoff discharges from the site in accordance with the major project standards of this Subpart to the maximum extent practicable. Such measures shall include, at a minimum, the infiltration of runoff from the first one-half inch of precipitation from all pre-development impervious areas within the site. The phased implementation of such controls for pre-development areas may be authorized. A variance will not be required for infiltration devices treating pre-development areas when conformance with the design standards for infiltration devices cannot be met. If the minimum one-half inch volume requirement cited herein cannot be met, the Commission may delegate the authority to issue a variance from this standard to staff.

6 NYCRR 646-4.10

Section 646-4.10. Vegetative cutting and clearing restrictions in stormwater regulatory programs

(a) No vegetation shall be felled into any lake, pond, river, stream or intermittent stream and if inadvertently felled into one of these water bodies, shall be removed immediately from the waterbody. The removal of dead, or dying, diseased trees or trees presenting a health or safety hazard shall not be exempt from this requirement.

(b) Within 500 feet of the mean high water mark of any lake, pond, river, stream, or wetland, no land area, including areas stockpiled with earthen materials, which has been cleared may be made or left devoid of growing vegetation for more than 24 hours without a protective covering securely placed over the entire area and/or erosion control devices properly installed to prevent sediments from entering the water body. Acceptable protective coverings include natural mulch of a depth of two inches, rock rip-rap, non-degradable materials such as plastic or canvas coverings, and impervious structures.

(c) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within 10 days from the substantial completion of such clearing and construction. Acceptable revegetation shall consist of the following:

(1) Reseeding with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage, but not less than 50 percent of the total disturbed area, to control erosion until such time as the cover crop is established over 90 percent of the seeded area.

(2) Replanting with native woody and herbaceous vegetation accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(3) Any other recognized method which has been reviewed and approved as satisfying the intent of this requirement.

(d) Any area of revegetation must exhibit survival of a minimum of 75 percent of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 75 percent survival for one year is achieved.

(e) Ground clearing or grading activities which occur during the period October 15th to April 15th, during which germination of vegetation typically will not take place, shall be required to incorporate extra measures during revegetation in order to reduce erosion and maintain water quality. These extra measures include, but are not limited to, the use of screen mesh, netting, extra mulch, and siltation fences.

(f) Land disturbance must be compliant with regulations for stream corridors at Section 646-5.

6 NYCRR 646-4.11

Section 646-4.11. Maintenance of stormwater control facilities under stormwater regulatory programs

Stormwater control measures shall include, at a minimum, provisions for the future maintenance of the site, consistent with the following:

(a) **Applicability.** Where it is deemed necessary by the commission, prior to issuance of a permit for any project, a stormwater management maintenance agreement may be required.

(b) **Purpose.** The stormwater management maintenance agreement shall ensure that stormwater control facilities are maintained in working condition throughout the life of the project.

(c) **Requirements.** The stormwater management maintenance agreement shall satisfy the following requirements:

(1) be in writing and be executed by each owner of the project and the municipality, and shall bind the owner(s), their successors and assigns to future maintenance of stormwater control facilities serving the project;

(2) be binding on all owners of lands within the project and all parties to the agreement, their successors and assigns for the life of the project;

(3) include provisions to raise, maintain and expend funds for necessary maintenance and repair functions over the life of the project;

(4) provide that if maintenance and repair activities are not performed in compliance with its terms, the municipality shall be entitled to perform or contract for the necessary services and charge the then current project owners for the cost thereof, including any related legal fees and disbursements; and

(5) provide for timely and routine inspections to be performed on all stormwater control facilities at intervals of no less than five years, and that written reports of these inspections shall be filed with the municipality and with the commission.

(d) **Notice.** Notice of the stormwater management maintenance agreement shall be recorded in the office of the county clerk or its terms shall be incorporated into covenants appearing in the deed, declarations of covenants and restrictions or other such documents to ensure that record notice of its terms is provided to future owners of the site. It shall also be included in the offering plan, if any, for the project. A copy of each stormwater management maintenance agreement shall be filed with the commission, which shall be made a third-party beneficiary of all such agreements, entitled to enforce their terms.

(e) **Initial maintenance security.** When deemed necessary by the commission, the project owner(s) or sponsor shall establish a maintenance security in the form of a bond, letter of

credit, escrow account, or other acceptable security, for the purpose of building, rebuilding, maintaining or repairing the stormwater control facilities. Terms for any maintenance security shall cover the time period beginning at the commencement of land disturbance and extend no less than two years following the approved completion of construction. Longer durations may be required when deemed necessary.

6 NYCRR 646-4.12

Section 646-4.12. Criteria for issuance of permits in stormwater regulatory programs

(a) An application may be approved, denied, or approved with modifications or conditions, including modifications to nonstormwater aspects of the development necessary to achieve the required level of stormwater management.

(b) No stormwater management permit shall be issued unless the following findings are made and are supported by substantial evidence. The facts supporting such findings shall be set forth in the decision document or permit. The issued permits shall set forth all required conditions and incorporate all necessary documents and maps.

(1) That the project meets the design requirements and performance standards set forth in Environmental Conservation Law, section 43-0112, this Subpart and the municipality's stormwater regulatory program, if applicable.

(2) That the project will not have an undue adverse impact on the health, safety and welfare of the public or on the resources of the Lake George park and will not lead to a diminution of water quality, an increase in erosion, or an increase in stormwater runoff from the site either during or following construction.

(3) That the stormwater control measures proposed for the proposed project will function as designed and that such measures represent the best possible methods and procedures for controlling stormwater runoff that is feasible and practicable at the particular project site.

(4) That adequate and sufficient measures have been taken to ensure accountability and responsibility over the life of the project should the stormwater control measures not function as intended, fail, or suffer from inadequate maintenance to ensure its proper functioning.

(5) That the proposed project will not contribute to flooding, siltation or streambank erosion and will not result in any increase, directly or indirectly, in pollution to Lake George or its tributaries from stormwater runoff.

6 NYCRR 646-4.13

Section 646-4.13. Variances from design requirements and performance standards for stormwater regulatory programs

(a) If during the review of an application it is determined that the application of any design or dimensional requirement contained in this Subpart will result in the denial of the project, the applicant shall be afforded an opportunity to modify the project plans or in the alternative to make application for a variance. Any applicant aggrieved by a final permit decision because of the application of any design or dimensional standard contained in this Subpart may make an application for a variance.

(b) If the applicant determines that any aspect of the project cannot meet any design or dimensional requirement contained in Subpart, the applicant may make direct application for a variance.

(c) Any person seeking a variance shall submit an application for a variance on such form as may be prescribed. Any variance application shall conform with and contain the requirements set forth in section 646-4.8 of this Subpart.

(d) A permit application involving a variance shall be processed in accordance with Subpart 645-5 of this Title except that no variance shall be granted unless the commission finds that the applicant has demonstrated entitlement to the variance pursuant to the criteria in section 267-b3. (b) of the New York State Town Law. The decision on a variance under municipal jurisdiction shall be in accordance with sections 267-a and 267-b of the New York Town Law in the case of a town or sections 7-712-a and 7-712-b of the New York State Village Law in the case of a village, and any amendments thereto provided, however, that the grant of any variance to the shoreline or cutting restrictions of section 806 of the Adirondack Park Agency Act (Executive Law, article 27) must be in compliance with that section and section 807 of the act, if applicable.

(e) In the granting of variances, the commission shall grant the minimum variance necessary to address the specified hardship of the applicant.

(f) In granting any variance, the commission may impose specific conditions upon the proposed use or activity necessary to assure that the use or activity will have no adverse impacts upon the public health, safety or welfare, the environment or the resources of the park. Such conditions may be imposed without regard to whether the commission could otherwise impose such conditions pursuant to the substantive authority of the commission under the Environmental Conservation Law, articles 43 and 71, title 33, or the rules or regulations promulgated by the commission thereunder.

(g) No variance shall be granted by a municipality until first providing notice to the commission a minimum of 15 days in advance. The commission shall be deemed a party to the proceeding for all purposes with the right to initiate or intervene in any action or proceeding in which the grant or denial of a variance is an issue or in any proceeding involving an interpretation of the municipality's plan or program.

6 NYCRR 646-4.14

Section 646-4.14. Stormwater management plans and stormwater regulatory programs required

(a) Each municipality shall adopt a stormwater management plan, and a stormwater regulatory program designed to implement said plan. Stormwater management plans and regulatory programs and amendments thereto shall be consistent with the requirements of this Subpart, and subject to the approval of the commission before they are effective. Plans and programs need not be adopted at the same time.

(b) The commission shall continue the Lake George Park Local Stormwater Planning Assistance Program with so much of its funds as are available for that purpose and shall continue to comply with agreements made under that program to provide assistance for local stormwater planning.

(c) A municipality may base its stormwater regulatory program upon the Model Stormwater Management Ordinance, Appendix A (see section 646-4.18 of this Subpart) and shall modify the ordinance, if necessary, to conform to its plan and its land use planning procedures. Where a municipality has revised the model ordinance so that it conforms to its plan and land use planning procedures, the adoption of such an ordinance by the municipality shall require commission approval in accordance with this Subpart. The adoption of the Model Stormwater Management Ordinance, without revision, by a municipality as a local ordinance or local law shall be deemed to satisfy the requirements of this Subpart and shall be deemed an approved stormwater regulatory program.

(d) The commission may enter into an agreement with any municipality for the shared implementation and enforcement of stormwater regulatory programs. Such agreements may include commission delegation of some or all of the authority assumed pursuant to Environmental Conservation Law, section 43-0112.

(e) If any municipality fails to implement a stormwater regulatory program approved in accordance with this Subpart, the commission shall assume, after providing for notice and an opportunity to be heard, by resolution, the authority to do so pursuant to section 646-4.7(k) of this Subpart. Some sections within this Subpart, referring to stormwater regulatory standards and procedures, do not identify the entity which has decisionmaking, implementation and enforcement authority with regard to such regulatory standards and procedures. These sections are to be read with the knowledge that the entity within such sections is either the commission or a municipality depending on who has the decisionmaking, implementation and enforcement authority pursuant to this Subpart.

(f) No plan or program shall be required for the Towns of Horicon, Lake Luzerne and Warrensburg. All development within those municipalities and within the park and within the lake drainage basin shall be the subject of agreements between the respective municipality and the commission pursuant to subdivision (d) of this section.

6 NYCRR 646-4.15

Section 646-4.15. Time limits for preparation and procedures for review of stormwater management plans and stormwater regulatory programs

(a) The commission shall mail notice to the chief executive officer of each municipality advising of the effective date of this Subpart, amendments thereto, the completion of the stormwater feasibility study prepared pursuant to Environmental Conservation Law, section 43-0112(2), the completion of a local stormwater plan or any other event which affects the content of plans or programs. The notice shall specify that the time frame within which the municipality has to prepare plans and programs or make amendments thereto has commenced.

(b) Each municipality shall be afforded a period of 90 days from the effective date of this Subpart, amendments thereto, the completion of a local stormwater plan or any other event which effects the content of plans or programs to deliver written notice of the municipality's intention to develop a plan and/or program, or make any necessary amendments to existing and approved plans and/or programs. This intention must be adopted by the majority vote of the governing body of the municipality.

(c) The initial time period within which each municipality had to prepare a plan and program, after the effective date of this Subpart, was 18 months in accordance with Environmental Conservation Law, section 43-0112(1)(a). This 18-month time period has expired. The time limit for preparing plans and programs shall be nine months from the date of notice, as required in subdivision (a) of this section, of the 1998 amendments to this Subpart. The time limit for amending existing and approved plans or programs shall be nine months from the date of notice of any amendments to this Subpart, the completion of the study recommendations pursuant to Environmental Conservation Law, section 43-0112(2) and (6), or any other event which affects the content of plans and programs.

(d) A proposed plan or program, or amendments thereto shall require the approval of the town or village board prior to submission to the commission for review under this Subpart. Copies of such proposed plan or program shall be made available to the public, and one copy of each shall be provided to the office of Region 5 of the department and to the Adirondack Park Agency.

(e) The commission shall provide for public notice of any pending action on proposed stormwater management plans, stormwater regulatory programs and amendments thereto, and shall afford an opportunity for public comment.

(f) Whenever the commission determines that the provisions of a proposed stormwater plan or program or proposed amendments to a previously approved plan or program are inconsistent with Environmental Conservation Law, section 43-0112 or with the requirements of this Subpart, it shall notify the municipality of the inconsistent provisions and request that the appropriate changes be incorporated. Such notice shall be in writing and shall specify a time period for the municipality to decide whether to make amendments to the preliminary plan or program consistent with the commission's recommendations.

(g) After public notice of the pending decision and after affording an opportunity for the municipality to make amendments, the commission shall render a final decision to approve or deny any proposed plan or program or amendments thereto and shall promptly mail notice of its decision together with the reasons supporting it to the chief executive officer of the municipality.

(h) The commission's decision to approve or deny any proposed stormwater management plan, program or amendment thereto shall be based on the following determinations of the commission:

(1) whether the plan, program or amendment thereto complies with the requirements of Environmental Conservation Law, section 43-0112 and this Subpart;

(2) whether the plan, program or amendment thereto has been amended to adequately respond to recommendations and comments of the commission; and

(3) the commission may, upon demonstration of good cause, approve a plan, program or amendment thereto which varies from the design or dimensional standards contained in this Subpart. Any such determination shall be made by the commission only upon a finding that the variance from the design or dimensional standards will not result in an adverse effect or impact upon the public health, safety, or welfare or the resources of the park.

(i) Following commission approval, a plan shall be adopted by the board of the municipality within 60 days. Following commission approval a program shall be adopted as a local ordinance or local law by the board of the municipality within 60 days. The 60-day time periods shall begin the day after commission approval of a plan and/or program.

(j) The commission may extend any time limit specified herein based upon a written request provided it is in the public interest and there is good cause demonstrated.

(k) The commission may assume a municipality's authority to regulate stormwater management and shall revoke its approval of any existing programs where the commission determines that any one of the following circumstances exist:

(1) a municipality has determined not to prepare a plan or program;

(2) a municipality has failed to adopt a plan or program; to meet any time limit for the delivery of the notice of intent, the submission or adoption of a plan or program, or the incorporation of amendments to this Subpart and recommendations made pursuant to Environmental Conservation Law, section 43-0112(2) in any existing and approved plan and/or program; or

(3) a municipality has failed to properly implement a program by failing to administer and enforce the program adequately to carry out the policies, purposes and objectives of the program.

(l) The commission shall not revoke its approval of a municipality's program without giving the municipality notice and an opportunity to be heard, but no adjudicatory hearing shall be required.

6 NYCRR 646-4.16

Section 646-4.16. General requirements for stormwater management plans

Each municipality's stormwater management plan shall, at a minimum:

(a) Provide for the implementation of the plan and its integration with other components of the municipality's land use planning program, such as zoning, subdivision, sanitary and site plan review controls, provide for the coordination of stormwater management with adjoining communities, and provide for public participation in stormwater planning and decisionmaking.

(b) Establish objectives and set policies which ensure that pollutant loads in stormwater runoff are minimized, that stormwater runoff is recharged to groundwater to the maximum extent possible, and that increases in the annual volume of stormwater runoff entering Lake George as a result of any land use or development are prevented. The objectives and policies shall also apply to new, expanded or altered development, land clearing, land grading and erosion and sedimentation control measures. Said policies and objectives shall address land use practices such as the use of pesticides and other chemicals, fertilizers, road salt, sand and other possible contaminants in maintaining or managing new or existing land resources, roads and structures, and shall establish policies and objectives for stormwater management for projects undertaken by state and local government bodies, and remediating the effects of stormwater runoff from presently existing private facilities and government facilities including highways, parking lots and buildings.

(c) Assign responsibility for stormwater management planning and regulation to one or more elected or appointed local boards, which may be a board appointed specifically for that purpose, or to qualified staff persons. Municipal authority to make stormwater-related decisions may be delegated to such a designated board or to such staff, provided the scope and limits of authority are clearly specified. The staff position or type of retained consultant who will advise the administering board shall be described, together with the qualifications which shall be required for such position. Duly qualified engineering and project review personnel or consultants shall be required for reviewing development project plans, programs, reports and construction.

(d) Establish procedures for periodically revising stormwater management plans and stormwater regulatory programs and overseeing implementation, as an on-going process, including administration of regulatory controls and execution of nonregulatory methods for accomplishing plan objectives.

(e) Outline and summarize the stormwater regulatory program to be adopted consistent with the requirements of this Subpart.

(f) Develop and implement procedures for ensuring that private and municipal stormwater control structures and natural or human-made features used to control stormwater runoff are properly and periodically maintained, and are replaced in timely fashion as may become

necessary. The procedures must provide for adequate funding and administrative control in perpetuity.

(g) Consider, in determining the significance of stormwater impacts on the lake, past degradation of the lake's water quality, the cumulative impact of proposed projects and any other development or activities in the park which can be reasonably anticipated and the assimilative capacity of the lake.

(h) Provide for the application of the plan to projects undertaken or constructed by the municipality.

6 NYCRR 646-4.17

Section 646-4.17. Stormwater management plan requirements in areas where development is occurring

Each stormwater management plan shall, at a minimum, include the following elements for those areas where new land use and development, including redevelopment, is occurring or where, under applicable zoning or other land use controls, new land use and development may occur in the future:

(a) Maps of individual parcels and general land areas where development is occurring or may occur in the future delineating the location and capacity of the existing stormwater infrastructure serving those parcels or areas, including community storm-sewers and human-made retention and detention control structures as well as natural stormwater control features. Such maps shall also depict major roads, streams, watersheds, ponds, wetlands, land use zones, soil types and areas with slopes generally greater than 15 percent and delineate, within each watershed, lands having potential for use as dedicated stormwater recharge areas. The commission shall establish standardized map formats and uniform scales to be used by the municipalities to promote the goal of a consistent planning reference for the park.

(b) A method for evaluating potential stormwater recharge areas on the basis of existing land use, soil profile, slope and bedrock characteristics, and similar factors related to the protection of public health and safety and the maintenance of water quality.

(c) Measures that the community intends to adopt to protect potential stormwater management areas so as to preserve such areas for treating and infiltrating stormwater runoff. These areas may be preserved and protected by fee acquisition, gifts, easements, use and density restrictions such as zoning, or other appropriate methods.

(d) A means of entering into agreements with other municipalities to use common areas within a watershed for stormwater infiltration purposes, subject to review by the commission.

(e) An evaluation of the long-term capability to control stormwater and a description of steps, including acquisition, easement or regulatory control, proposed to be undertaken to protect natural stormwater control features such as streams, ponds and wetlands.

(f) Proposed amendments to existing land use planning controls, if necessary, to ensure that permitted development is consistent with stormwater management standards set forth in this Subpart.

6 NYCRR 646-4.18

Section 646-4.18. Stormwater management plan requirements for developed areas

(a) Pursuant to Environmental Conservation Law, section 43-0112(2) the commission shall prepare a study of the feasibility of reducing the impacts of stormwater runoff in areas where development has already occurred. The recommendations of such study shall be incorporated into stormwater management plans and stormwater regulatory programs. Municipalities nevertheless should identify, early in the planning process, geographic areas and land-based activities requiring attention to alleviate adverse stormwater related impacts upon water quality and erosion. Municipalities are also encouraged to begin to consider policies and methods to address such impacts prior to completion of the study.

(b) The plan may include in relation to such geographic areas and land-based activities:

(1) a description and location of major stormwater outfall points;

(2) an analysis of existing data on flows and pollutants discharged from major stormwater outfalls and an evaluation of the need to gather additional data in order to:

(i) establish baseline levels of elements and compounds being discharged at major stormwater out falls; and

(ii) rank major stormwater outfalls in order of the amount, levels and volume of stormwater and pollutant loads being discharged;

(3) specific objectives which can reasonably be expected to be undertaken by State and local government to reduce or prevent any increase in stormwater runoff and stormwater pollution from new development or redevelopment. In setting specific objectives, the plan shall evaluate the following:

(i) construction of new stormwater management facilities such as siltation traps, catch basins, and/or retention ponds, independently, or as part of any public road project or other development;

(ii) improved maintenance of existing stormwater management facilities;

(iii) targets for reduction in volume of road deicing sand and salts;

(iv) improvements in runoff controls at road sand and salt storage areas;

(v) reduction in the volume of fertilizers and pesticides applied to public and private lands;

(vi) action to improve spring cleanup of road sand and salt including identification of suitable disposal sites;

(vii) alteration of existing stormwater facilities to reduce the volume of stormwater mixed with surface water flows from the undeveloped upland thereby reducing the volume of polluted water to be controlled;

(viii) action to stabilize eroding areas such as road banks, stream crossing sites, sand and gravel mines; and

(ix) action to improve street sweeping, litter and lawn clipping and other housekeeping measures; and

(4) an identification of ponds and wetlands and areas of watercourses now receiving stormwater and an evaluation of their potential to absorb additional stormwater flows and pollutants without undue adverse impacts to the wetland or watercourse.

6 NYCRR 646-4.19

Section 646-4.19. General requirements for stormwater regulatory programs

Each municipality shall adopt a stormwater regulatory program which shall include permit requirements, standards, compliance mechanisms and enforcement provisions governing the design, construction, operation and maintenance of stormwater management facilities.

(a) Each municipality's stormwater regulatory program shall be designed to do the following:

(1) prevent any increase in stormwater runoff from any development in order to reduce flooding, siltation, and streambank erosion;

(2) prevent any increase in pollution caused by stormwater runoff from development which would otherwise degrade the quality of water in Lake George and its tributaries and render it unfit for human consumption, interfere with water based recreation or adversely affect aquatic life; and

(3) ensure that the total annual volume of surface water runoff which flows from any specific site during and following development shall not exceed that which prevailed prior to development.

(b) Each stormwater regulatory program shall be adopted as a local law or local ordinance.

(c) As set forth in section 646-4.9 of this Subpart, the adoption of the Model Stormwater Management Ordinance by a municipality as a local ordinance shall be deemed an approved stormwater regulatory program.

(d) Each program shall, at a minimum, do the following:

(1) require that all development, including subdivisions of land, control or manage the stormwater runoff flowing on and from the site of the development, and that all development, be subject to a review process which applies the minimum design and permit issuance standards specified herein;

(2) contain a statement of purpose and intent compatible with this Subpart and Environmental Conservation Law, section 43-0112(b) and (c);

(3) contain a list of terms and definitions of those terms as they are used in the program;

(4) prohibit any person from commencing any project or activity subject to the provisions of the program without first obtaining a stormwater management permit from the municipality;

- (5) require that applications for permits be submitted according to standard procedures utilized by the municipality and that applications contain the minimum information specified in section 646-4.13 of this Subpart;**
- (6) contain provisions governing public notification of permit application and action thereon which are no less restrictive than those utilized by the municipality for zoning and other land use permits;**
- (7) contain provisions governing modification, suspension or revocation of permits;**
- (8) include a statement of the manner and frequency of notice to the commission of pending permit decisions;**
- (9) provide for the granting of variances from the requirements of the program in accordance with section 646-4.9 of this Subpart.**
- (10) require performance and maintenance guarantees and timely maintenance inspections for stormwater control structures associated with major projects;**
- (11) require adherence to the minimum revegetation requirements specified in this Subpart;**
- (12) contain provisions governing summary abatement of conditions or activities causing or likely to cause sedimentation or pollution of water bodies, which shall include a provision permitting the municipality to undertake emergency remediation measures;**
- (13) establish enforcement procedures and penalties for failure to comply with the requirements of the stormwater regulatory program or the terms of permits issued pursuant to the program;**
- (14) provide for the maintenance of appropriately detailed records of permits granted pursuant thereto for the purpose of calculating the cumulative use of the stormwater control infrastructure within the municipality and of assessing runoff resulting from new development;**
- (15) prohibit any person to cause or allow discharges of sediment carried by stormwater which arises from any activity undertaken on lands owned by that person into any water body within the park;**
- (16) provide for coordination of review with adjoining municipalities for projects located in more than one municipality and include measures to ensure that the effects of stormwater runoff in all affected municipalities are considered;**
- (17) ensure that any person constructing a house or undertaking any other land use or development on lands for which a stormwater management permit has previously**

been issued to a prior owner, or as part of the approval of a subdivision, shall comply with the terms of said permit. Any such construction, land use or development will not require an additional permit if it is in conformance with the original permit;

(18) provide that prior to the recording of any subdivision map or plat in the office of the county clerk, a certification of its approval pursuant to the stormwater regulatory program shall be affixed and signed by a duly authorized municipal official;

(19) include, if deemed desirable or necessary by the municipality for the protection of the water quality and resources of the park, provisions determining whether previously approved subdivisions must obtain stormwater management permits prior to the further sale of additional lots; and

(20) include, if deemed desirable or necessary by the municipality for the protection of water quality and the resources of the park, provisions determining whether projects which did not receive all local, Federal and State permits prior to December 2, 1988, but which have not yet been substantially constructed, must obtain stormwater management permits prior to construction.