

Statutory Authority: *“The Commission shall, after consultation with the department, the department of health, the Adirondack Park Agency and each municipality located in whole or in part within the Park, further promulgate regulations relative to stream corridor management which shall include standards for the location of roads, stream channelization, the frequency of stream crossings, and timber harvesting and vegetative cutting restrictions within designated stream corridors. The regulations adopted pursuant to this section may be stricter than regulations promulgated by the department.”* 43-0112 (5) Environmental Conservation Law.

Section I. Intent

The purpose of this Article is to establish permit requirements and standards for the protection of stream corridors within the Lake George Park; to preserve the water quality of Lake George and its tributaries; to protect the riparian and aquatic ecosystems of streams within the Lake George Park; and to provide for the environmentally sound use of the Lake George Park’s land resources.

Section II. Definitions

Terms used in this Article shall have the meaning set forth in 6 NYCRR 646-4.4 and 6NYCRR 645-2 except for the following terms that shall have the stated meanings when used in this Article:

Accessory structure or use means a structure or use that is clearly incidental and subordinate to and serves the principal use or building and is located on the same lot with the principal use or building.

Basal area means the cross section area of trees in a stand measured at breast height (4.5’), expressed as square units per unit area.

Designated stream corridor means the stream bed and the area extending 100 feet from the high water mark on each side of a stream and shall also include the area designated as a stream corridor on any development permit approved in accordance with this Subpart. The stream corridor shall be measured in a direction directly perpendicular to the stream's high water mark and in the horizontal plane.

Existing development means buildings, structures, impervious areas, landscaped areas, utilities and accessory structures present on the effective date of this Article.

Existing lot of record means a portion or a parcel of land the boundaries of which are described in a deed that has been properly recorded in the County Clerk's Office prior to the effective date of this Article. Whenever two or more contiguous existing lots of record are held in common ownership on the effective date of this Article such lots shall be deemed to be a single existing lot of record.

High Water Mark (HWM) of a stream means a line along the banks of a stream that is the approximate seasonal peak water level as indicated by the cut of the bank and the demarcation between terrestrial and aquatic vegetation. For the purpose of determining the high water mark, ponds of one acre or less within the stream shall be included.

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

Outer zone means an area beginning at the outer edge of the riparian zone and extending to the edge of the stream corridor.

Riparian zone means an area in a designated stream corridor including the stream bed and extending 50 feet from the high water mark of a stream.

Stream means a permanent or intermittent natural water course identified in Appendix A *The Inventory and Map of Protected Streams*.

Stream bed means the flow area of a stream at and below the high water mark of a stream.

Timber harvesting means cutting trees for sale or use by the land owner and the clearing, construction, use and maintenance of a wood road, log head and skid trail necessary to access trees cut for sale or use by the land owner. Timber harvesting shall not include vegetation removal, road construction, excavation, land clearing or land disturbance for development.

Section III. Prohibitions

1. No person shall undertake development, land disturbance, or land clearing including the subdivision of land in a designated stream corridor without first receiving a permit pursuant to this Subpart.
2. No person shall disturb the bed or banks of any stream without first receiving a permit pursuant to this Subpart.
3. No person shall discharge, throw, or abandon any foul, noxious or deleterious substance into a stream or designated stream corridor.
4. No person shall fail to conform to any permit issued pursuant to this Subpart.
5. No owner of real property located within the Lake George Park shall maintain a condition on such property, which due to a human disturbance of land or vegetative cover, or soil, results in the erosion of soil into any stream or water body. The Commission shall notify a property owner of such condition on his property and shall afford a reasonable time period to correct such condition. Failure of the property owner

to remedy such condition shall be a violation of this Article with an additional violation for each day the condition continues.

Section IV. Exemptions

The permit requirements in Section III 1 of this Article shall not apply to any of the following:

1. Emergency actions necessary to protect the public health, safety or welfare or to prevent damage to private property for which notice is provided to the Commission within 72 hours after the emergency action.
2. Any project that received required approvals prior to the effective date of this Article.
3. Projects located entirely outside the land drainage basin of Lake George.
4. Maintenance of structures, utility rights-of-way, impervious areas and landscaped areas existing on the effective date of this Article which do not require disturbance to the stream bed.
5. Removal of storm damaged trees that are a hazard to people or buildings.
6. Construction of a fence.
7. Agricultural activities that the Commission determines are in accordance with a soil and water conservation plan approved by the appropriate county soil and water conservation district.

Section V. Provisions Relating to Timber Harvesting

1. The permit requirements in Section III 1 of this Article shall not apply to timber harvesting provided the following are met:
 - i. the property owner provides a completed *notice of intent to harvest timber checklist* (Appendix B) to the Commission a minimum ten (10) days in advance of starting land disturbance or vegetation removal and posts a copy of the *notice of intent to harvest timber checklist* in a conspicuous location at the access to the property to be harvested,

- ii. the project does not require construction of a stream crossing, road, log head, land clearing or land disturbance in the riparian zone,
 - iii. timber harvesting is in accordance with the *New York State Forestry Best Management Practices for Water Quality BMP Field Guide*, which is expressly incorporated herein by reference and can be found at www.dec.ny.gov.
 - iv. not more than 50% of the basal area of trees is removed within the riparian zone,
2. The *notice of intent to harvest timber checklist* shall be submitted on forms available on the Commission's website www.lgpc.state.ny.us and may require a plan and profile view of any road to be constructed. A *notice of intent to harvest timber checklist* may cover a period of up to three years.
3. If the Commission determines that the scope of vegetation removal, road construction, excavation, land clearing or land disturbance proposed or undertaken under a permit exemption for timber harvesting constitutes development or otherwise poses a threat to the natural resources of the Park, it shall give notice to the property owner that a permit is required pursuant to this Subpart. After such notice, failure by any person to obtain a permit or conform to the permit requirements shall constitute a violation of this Subpart.
4. No person shall undertake timber harvesting or vegetative removal in a designated stream corridor except in accordance with *New York State Forestry Best Management Practices for Water Quality BMP Field Guide* which is expressly incorporated herein by reference and can be found at www.dec.ny.gov. Whenever the Commission determines that timber harvesting or vegetative removal is occurring or has occurred in a manner not in accordance with the *New York State Forestry Best Management Practices for Water Quality BMP Field Guide*, it shall give notice to the property owner setting forth a reasonable period of time to undertake specific corrective action. Failure to undertake the

specific corrective action prescribed in the notice within the period of time shall constitute a violation of this Article. Each day the property owner fails to undertake the specific corrective action after the period of time shall be a separate violation.

Section VI. Project Classification

Minor and Major project classifications established in Section 646-4.12 shall apply to any project that requires a permit pursuant to this Article.

VII. Standards for the Protection of Designated Stream Corridors

The following activities and uses may be authorized by a permit:

1. Riparian Zone
 - i. Flood control structures, bank stabilization, stream restoration, and erosion and sedimentation control projects,
 - ii. Footpaths,
 - iii. Utility Rights of Way,
 - iv. Road crossing,
 - v. Removal of dead, diseased, or dying trees,
 - vi. Fallen trees that are blocking stream channels,
 - vii. Removal or pruning of invasive species,
 - viii. Fishing and canoe access sites,
 - ix. Removal of structures and other activities and uses that benefit the stream corridor.
2. Outer Zone

Uses and activities allowed in the Riparian Zone and the following uses:

 - i. Gardens and stormwater control measures consistent with the design standards of this Subpart,
 - ii. Biking or hiking paths,
 - iii. Clearing of not more than 30% of the individual trees over 6" DBH during any 10 year period,

- iv Stormwater control measures consistent with the standards of this Subpart.

3. Standards for existing lots of record

Provided i, ii, iii and iv of this section are met, the following uses may be authorized by a permit:

A. A single family house, driveway and accessory structures on an existing lot of record.

B. The expansion of any existing development up to a 25% increase in impervious area in any consecutive 10 year period.

- i. Development, land disturbance, land clearing and vegetation removal shall be limited by the Standards for Protection of Stream Corridors in 1 and 2 above to the maximum extent practicable,

- ii. Buildings, impervious areas, land disturbance, land clearing and vegetative removal are not allowed within 35 feet of the high water mark of a stream except as necessitated by a stream crossing,

- iii. All existing indigenous vegetation within 35 feet of the HWM of the stream shall be preserved.

- iv. The project complies with the standards and requirements for stormwater management contained in this Subpart.

C. Waiver provisions for existing lots of record of a certain size.

The Commission may grant a waiver allowing construction of a single family house, driveway, and accessory structures on an existing lot of record within 35 feet of the high water mark of a stream when it is determined that the area within 35 feet of the mean high water mark is greater than 30% of the area of an existing lot of record provided all of the following conditions exist:

i. development, land disturbance, land clearing and vegetation removal shall be limited by the Standards for Protection of Stream Corridors in 1 and 2 above to the maximum extent practicable,

ii. The total area of lot coverage by impervious area including any building, driveway, parking area, deck, patio, sidewalk and hardscape following the development does not exceed 30 percent coverage of the existing lot of record,

iii. The slope is not greater than 10 %,

iv. The project complies with the standards and requirements for stormwater management contained in this Subpart.

D. The Commission may delegate the authority to issue waivers to Commission staff and may impose conditions on any waiver that it determines are necessary to protect the resources of the park and the public health, safety and welfare.

4. Prior to the issuance of a permit pursuant to this Article, the Commission shall ascertain the probable effect of the project on the water quality of the stream and the Lake and on the natural resources of the Park including the flora and fauna. When it is determined that the proposed activity will endanger the health, safety or welfare of the public or lead to unnecessary, uncontrolled or undue impacts to water quality, to the natural resources of the Park or to the physical or ecological integrity of a designated stream corridor, the permit shall be denied.

Section VIII. Standards for Stream Crossings and Stream Bed Disturbances

The following criteria shall apply to all stream crossings and stream bed disturbances.

1. Stream crossing, channelization, or piping is allowed only for utility crossings, logging roads, public roads (including subdivision roads to be accepted), approved private roads and driveways to access private real property.
2. Separate road and utility crossings shall not be approved when the consolidation of the proposed crossings is feasible.

3. When separate road and utility crossings are necessary the preferred methodology for utility establishment shall be by directional boring under the stream bed.
4. The number of crossings shall be limited to one per subdivision per stream.
5. When culverts or arches are used, they shall be used so as to maintain the natural course and bed of the stream.
6. Culverts and arches must be sized and designed in accordance with standard design practices, including allowing for safe passage for wildlife and floodplain flows.
7. All stream crossings shall be designed to safely pass the fifty (50)-year, peak storm event. The Commission may require additional design features it determines necessary to prevent a hazard to down stream property
8. Stream crossings shall not impound water during the 10-year storm event, or result in a barrier to fish passage.
9. Any stream crossing structure placed within the stream bed shall be designed with a minimum width of one and one-fourth (1.25) times the width of the stream bed to the high water mark.
10. Permanent culverts shall be embedded 20% of the area of the culvert at the downstream end of the culvert.
11. Culverts shall be flat (0% slope) along their linear length. Any stream bed disturbance shall retain the natural bed, elevation and course of the stream
12. Any stream bed disturbance shall be limited to the minimum disturbance necessary.
13. Disturbances for roads shall be limited to a maximum width of thirty (30) feet.
14. Crossings that convey wastewater shall be depicted on a certified survey. The survey map shall be filed with the Office of the County Clerk in the county where the property is located.
15. No permit shall be issued pursuant to this Subpart, unless the Commission first determines that the activity is reasonable and necessary, will not endanger the health, safety or welfare of the public and will not cause damage to downstream properties or the natural resources of the Lake George Park.

Section IX. Plan Requirements

Project plans shall be required to include information the Commission determines is reasonably necessary to complete its review and generally shall include: plan views of proposed and existing buildings and impervious areas, grading plans, temporary erosion and sedimentation controls, limits of clearing, areas of selective cutting, location of trees to be removed, soil tests, slopes, landscape and plantings and buffer areas to be protected. Designated stream corridors shall be depicted on subdivision plats submitted for approval. The Commission may require that an approved subdivision plat, survey or permit be filed with the county clerk and/or the designated stream corridor be protected by deed reference.

Section X. Administration

1. A variance to any standard in this Article shall be processed in accordance with the requirements of 646-4.18 of this Subpart.
2. Whenever the permit requirements of this Article apply in conjunction with the requirements of Article 2 of this Subpart, a single application form, fee, and permit processing shall be applicable.
3. The fee for permits required pursuant to the Article shall be those established for major and minor stormwater projects pursuant to 6 NYCRR 645.5.
4. The Commission may enter into agreements with municipalities for administration of designated stream corridor management programs that are consistent with the intent, purpose and standards of this Subpart. Such agreements may provide for administration of permits and enforcement of this Article. However, the agreements shall not limit the Commission from taking enforcement action if it determines that a violation this Subpart or of any permit issued pursuant to this Subpart endangers the health, safety and welfare of the public or results in damage to the natural resources of the Park.
5. The Commission may enter into agreements governing administration of this Subpart with the Department and the APA.

6. The Lake George Park Stream Corridor Management Grant Program is hereby established as a mechanism for the Commission to provide funds from the Lake George Park Trust Fund to local governments, conservation districts and citizen committees to plan and undertake stream corridor restoration projects.
7. The Commission may issue general permits to highway departments, conservation districts or other entities to authorize a number of similar projects or activities.
8. The Commission may require that the boundary of stream corridors be marked with appropriate signage to reduce encroachments into the corridor.
9. The Commission shall develop a guide to minor projects that shall set forth the objectives of this Article and provide applicants with strategies for the prudent conservation of resources and the protection of designated stream corridors.

Section XI. Continuation

Within three years of the effective date of this Article, the Commission shall undertake a review of these stream corridor management regulations to determine whether the need exists for their continuation, repeal or modification.