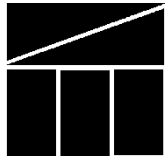


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget **Economic Impact Analysis**

1 VAC 30-150 Regulations for Public Use of the Robert E. Lee Monument in Richmond, VA

Department of General Services

Town Hall Action/Stage: 4948 / 8345

September 7, 2018

Summary of the Proposed Amendments to Regulation

The Department of General Services (DGS) proposes to promulgate a permanent regulation for public use of the Robert E. Lee monument.

Result of Analysis

The benefits likely exceed the costs for the proposed regulation.

Estimated Economic Impact

The statute of Robert E. Lee located at 1700 Monument Avenue in Richmond, Virginia and the surrounding 25,000 square feet of land, known as the Lee Monument, is state-owned property. The events at a “Unite the Right” rally on August 12, 2017 turned into a violent incident of civil unrest in Charlottesville, Virginia and necessitated a State of Emergency declaration by Governor McAuliffe. Executive Order 67 followed on August 18, 2017 and required “full review of permitting processes and other relevant regulations.” The executive order stated:

Unlike a city park, the Lee Monument serves a limited purpose and has not historically been an open forum for expressive activity. It sits in a traffic rotary, in a major thoroughfare through the City of Richmond, in the middle of one of the most scenic and historic residential areas in the United States. Current standards contemplate up to 5,000 people gathering at the Lee Monument. Given the size of

the Lee Monument, the fact that traffic continually passes around it, and that there is no pedestrian crosswalk for access, I have concluded that permitting any large group would create a safety hazard in the current circumstances. Current policies also allow for permits to be issued from sunrise to 11:00 pm, which also could, given the Lee Monument's proximity to private residences, interfere with the quiet enjoyment of those properties. Moreover, the Lee Monument is a State-property island in an area otherwise regulated by the City of Richmond, yet there is no formal requirement for coordinating approval through the City of Richmond's permitting process. This regulatory gap, which has heretofore been handled informally, must be addressed.

DGS promulgated emergency regulations on November 17, 2017. DGS now proposes to adopt those regulations permanently. One of the changes compared to the previous informal permit process is submission of more detailed information (e.g. a waste management plan, whether the event is being advertised, the type of the event, etc.) in addition to previously required information about the names and addresses of the group or organization, of its principle officers, and of the individual member responsible for the conduct of the event, etc. The submission and review of such additional information would likely add to the administrative costs that would be incurred by the applicant as well as by DGS. However, the additional information would also help DGS and Capitol Police determine staffing requirements to ensure public safety.

The proposed regulation also requires proof that all permit applications, including required road closure if necessary; have been submitted to the City of Richmond. Abutting streets around the monument are the property of the City of Richmond and subject to the city's permit rules. DGS may only consider approval of applications if the city has determined that no city permit is required, or if the required city permits have been issued. This requirement may add to the administrative costs of the City of Richmond, which would have to now evaluate each request and make a determination. For example, based on the publicly available City of Richmond criteria,¹ currently the City of Richmond may not require a permit for events where less than 300 people will participate, but this proposed regulation would require the applicant to obtain a formal determination from the city to that effect.

The proposed regulation has no bearing on the criteria the City of Richmond have in place or will have in the future. Therefore, the proposed regulation does not impose any

¹ See <http://eservices.ci.richmond.va.us/APPLICATIONS/SPECIALEVENTS/>, accessed on Sept 6, 2018.

additional burdens on applicants who would already have to obtain a permit from the city other than proving to DGS that such a permit is issued by the city. This proposed requirement would indirectly promote compliance with city permit rules. However, one unintended consequence could be that future event planners may be more inclined to limit attendance to fewer than 300 people and hold their events on the city owned sidewalk surrounding the monument; therefore avoiding the need for any permits from the City or DGS.

The proposed regulation also reduces the maximum occupancy on the monument grounds from an established informal limit of 5,000 to 500 persons for the reasons stated in the executive order (i.e. limited size of the monument grounds, traffic in the surrounding area, lack of pedestrian crosswalk for access) to minimize safety hazards. Similarly, time limits are proposed to minimize traffic disruptions on a key thoroughfare and for the quiet enjoyment of surrounding private residences.² Finally, the proposed regulation establishes a list of prohibited items and activities (e.g. bricks, stones, alcohol, penetration of the ground, open burning, etc.) allowed during a permitted event. These proposed changes would limit the choices available to event planners compared to the previous informal permit process, but are also expected to improve public safety during permitted events at the monument.

Businesses and Entities Affected

The proposed regulation would apply to applicants wishing to use Lee Monument grounds for special events. Events have been permitted and held at the Lee Monument in the past include the Easter Parade and the Monument 10K. The Monument 10K should not be affected by the proposed regulation because the event has not sought a permit to specifically use the monument grounds in the last several years. The regulation may not apply to established events (i.e. events permitted in the past more than three consecutive years). For example, if Monument 10k were to apply for a permit, they may be grandfathered. An event may also be exempt from some of the proposed timing, duration, and prohibited item list at DGS' discretion based on this proposed regulation.

Localities Particularly Affected

The proposed regulation applies to a state-owned property in the City of Richmond.

² Events may occur only Monday through Friday 9 a.m. to 4 p.m. and 7 p.m. to 9 p.m.; Saturday 9 a.m. to 9 p.m.; Sunday 2 p.m. to 9 p.m.

Projected Impact on Employment

The proposed regulation would necessitate additional time to prepare and review an event application, but is unlikely to have any discernible impact on employment.

Effects on the Use and Value of Private Property

The proposed regulation is expected to minimize disruption around the monument and would mitigate potential negative impacts during a few events, but is unlikely to significantly affect the use and value of private property in that neighborhood.

Real Estate Development Costs

The proposed regulation is unlikely to affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

The proposed regulation is unlikely to impose costs and other impacts on small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed regulation does not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed regulation does not adversely affect businesses.

Localities:

The proposed regulation would introduce additional administrative costs on the City of Richmond, but it may also strengthen compliance with the City of Richmond event permit rules by requiring proof of such a permit.

Other Entities:

The proposed regulation imposes limits on time, duration, items allowed, and participation of and at events at the Lee Monument. Any entity wishing to hold an event under previous less stringent rules may perceive to be adversely affected.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.