

**CONCORD PUBLIC WORKS  
ENGINEERING DIVISION**

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**133 Keyes Road  
Concord, MA 01742**



**DATE: 09/22/2022**

**MEMORANDUM**

**TO:** Concord Planning Board  
c/o Elizabeth Hughes, Town Planner  
**VIA:** Alan Cathcart, Director of Public Works  
**COPY:** Aaron Miklosko, Highway & Grounds Superintendent  
**FROM:** Stephen Dookran, P.E., Town Engineer  
**SUBJECT:** Scenic Roads Bylaw: Comments on Draft Rules & Regulations

A copy of the draft rules and regulations was forwarded by staff of the Planning Division for review by Concord Public Works (CPW) and the Public Works Commission (PWC) with the understanding that the Planning Board will consider input from CPW and PWC during the process of adopting the rules and regulations. CPW has been requested to provide this memorandum to the Planning Board for discussion purposes in the interim. The PWC anticipates revisions and clarifications sought by the PWC will be provided, after which the PWC will further discuss and endorse a formal communication on its recommendations on the rules and regulations before final adoption.

A review of the draft rules and regulations performed by the CPW's Director and staff of the Engineering and Highway Divisions yielded the comments and suggested changes to the language as highlighted in the attached copy of the document.

A review of the draft with the PWC occurred at the latest regular meeting of the commission on September 14, 2022. The attached memo as well as the document with CPW review were presented to the PWC. The PWC expressed an overarching concern for bureaucratic redundancies and inefficiencies with respect to specific roles and responsibilities in administration and authority of routine and non-routine work within public way. Minutes of the meeting have not yet been prepared but we have captured in the following bullets the more pertinent discussion points:

- Understanding of what was actually voted on as Bylaw vs. proposed Regulations
  - Reasonableness of excluding redundancy – versus desire for check and balance
- Need for legal review to understand interplay between existing laws, bylaws, regulations and policies.
  - Laws
    - Public Shade Tree MGL Chapter 87
    - Scenic Roads Act: MGL Chapter 40, Sec 15C
  - Bylaws
    - Private Digging of Roads (1923, amended 1992)
    - Tree Bylaw (1905)
    - Tree Preservation Bylaw (2018)
  - Regulations
    - Tree Preservation Bylaw Rules and Regulations (2018)
  - Policies
    - Roads Program (1994)
    - Roads Program Statement (1999)
    - Public Shade Tree Policy (2006)
- Understanding as to what should actually constitute a “stone wall”.
  - Design standard issues: should we categorically exclude ALL retaining walls – structural or stormwater related needs
  - Boulders used as parking deterrents? Curbing?
- Authority of Tree Warden

- Tree Warden's experience and need for quick decisions vs. drawn out, bureaucratic ever-changing volunteer board
- Concerns for duplication of review – impact on schedule
- Can PWC request redundancy be removed from regulations – does bylaw that was passed allow for this
- Could Planning Board attend tree hearing called by Tree Warden to reduce delays
- Implications such as what is the burden proof to accurately define/lay out “Right-of-Way”
  - Professional Surveyor will be required
- Consideration of adoption for new scenic roads should include “future needs” such as roadside improvements, drainage improvements
  - Balance of Town interests
  - Input from TAC and State Agencies for macro planning considerations
- Decisions
  - Performance Bond duplication
    - CPW already has authority – are two bonds now required
    - How do you value “sufficient protection” of a public shade tree
    - Should restoration be value
  - Alternatives for work subject to “reasonableness”, staff recommending “affordability” be considered
    - Could affordability be considered for municipal initiatives

The link [https://us02web.zoom.us/rec/share/ZDe2Zfy7dJjBwNpDgUTX1vJIWdSbUYm-Gw2SvrotPaWT-Mfbj58\\_FOQpz4Wfh-JF.pwYriuXzHgDG2Gm0](https://us02web.zoom.us/rec/share/ZDe2Zfy7dJjBwNpDgUTX1vJIWdSbUYm-Gw2SvrotPaWT-Mfbj58_FOQpz4Wfh-JF.pwYriuXzHgDG2Gm0)

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gives access to view a video recording of the September 14, 2022 PWC meeting.

Please contact CPW Engineering if you have any questions.

**Attachments:**

- (i) Memo to Public Works Commission dated 9/8/2022 on Scenic Roads Bylaw: Draft Rules & Regulations
- (ii) Draft of *Rules and Regulations for the Administration of the Scenic Roads General Bylaw* with edits made by CPW staff

