

302 CMR 11.00: PARKWAYS, TRAFFIC, AND PEDESTRIAN RULES

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11.01: General Provisions

- (1) Purpose. 302 CMR 11.00 governs the conduct of activities on property of the Commonwealth owned by, or under the care, custody, and control of the Department of Conservation and Recreation.
- (2) The provisions of 302 CMR 11.00 establish minimum requirements. The Commissioner may, in his or her discretion, impose additional obligations or requirements as necessary.
- (3) Construction.
 - (a) 302 CMR 11.00 shall be liberally construed to permit the Department of Conservation and Recreation to discharge its statutory functions.
 - (b) The Commissioner of the Department of Conservation and Recreation may, in the public interest, or in an emergency, suspend the application of any section of 302 CMR 11.00.
 - (c) The Commissioner of the Department of Conservation and Recreation may waive any provision or requirement in these regulations not specifically required by law when, in the Commissioner's judgment, strict compliance with such provision or requirement would result in an undue hardship and would not serve to further the intent of M.G.L. c.21, §1; M.G.L. c. 92, §§33, 34B, 35, 35A, 37, 38, 41, 95; M.G.L. c.132A, §§2D, 7, 7A; St. 1981, c. 746; St. 2004, c. 41 and St. 2011, c. 68, § 29.
 - (d) No provision of 302 CMR 11.00 shall make unlawful any act necessarily performed by any officer or employee of the Department of Conservation and Recreation performed in the line of duty or as part of their work duties, or by any person acting as an agent of the Department of Conservation and Recreation or its employees. This shall be true for any person or their agents engaged in performing the proper and necessary execution of the terms and conditions

of any agreement with the Department of Conservation and Recreation.

(e) Severability. If any chapter, section, subsection, division, or subdivision of 302 CMR 11.00 shall be determined to be invalid, such determination shall apply to the particular chapter, section, subsection, division, or subdivision, and all other provisions of 302 CMR 11.00 shall remain valid and in effect.

(f) The Department of Conservation and Recreation may post rules restricting particular activities as to designated areas and/or times.

(g) 302 CMR 11.00 shall apply to all DCR property within the Division of State Parks and Recreation, except that parking violations as noted in 302 CMR 11.04 and 302 CMR 11.11 shall apply to all DCR property, including property under the control of the Division of Water Supply Protection.

11.02: Definitions

The following words and phrases, when used in 302 CMR 11.00, shall have the meanings respectively ascribed to them in 302 CMR 11.00 except in those instances where the context clearly indicates a different meaning or is otherwise stated.

Whenever any word and phrase used in 302 CMR 11.00 is not defined in 302 CMR 11.00, such word or phrase shall be construed according to its generally accepted meaning as noted in a dictionary of general usage.

ADT. Average daily traffic, which is the general unit of measure for traffic on a highway; it is the total volume during a given time period (in whole days), greater than one day and less than one year, divided by the number of days in that time period.

Ban. The prohibition, resulting from violations of rules and regulations applicable to conduct on DCR property, of a person from DCR property, for a period of time longer than that associated with an eviction.

Basin. The Charles River Basin.

Bicycle. A two wheel non-motorized vehicle designed to be used both on and off paved surfaces and over unimproved terrain.

Bicycle Lane. That portion of a roadway that is designated in such a way as to alert all road users that a portion of the roadway is for exclusive use by bicyclists and riders of electric bicycles, including lines, symbols, and signage demarcating the exclusive area.

Boulevard. Any roadway, parkway, way or any portion thereof, under the jurisdictional care, custody or control of DCR, between regularly established curb lines or that part, exclusive of shoulders, improved and intended to be open and used for vehicular traffic by the public on a

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public way, including vehicular and/or pedestrian, bicycle, electric bicycle, or other DCR approved traffic.

Breakdown Lane. A paved lane on a way to the right of the travel lanes and separated from them by a solid line.

Bridge. A structural passage over water or land for pedestrian and/or vehicular traffic.

Bus. A vehicle designed for carrying more than eight passengers or more than two special needs persons and used primarily for the transportation of persons for compensation, as a service, or as an adjunct to a school program or other organized group.

Bus, Streetcar, Trackless Trolley Stop. An area in the parkway to the curb or edge of the parkway set aside for the boarding of or alighting from designated buses, streetcars, or trackless trolleys.

Charles River Basin. The Charles River Basin as defined by St. 1909, c. 524, as amended by St. 1962, c. 550, and includes the Charles River and its tributaries lying between the Watertown Dam and the Charles River Dam which is located between the Leonard P. Zakim Bunker Hill Memorial and North Washington Street Bridges; and the Mystic River Basin as defined by the Upper Mystic Lake Dam at the upstream end and the Amelia Earhart Dam at the downstream end and includes the Mystic River, the Amelia Earhart Dam and its tributaries.

Citation. Notice of any violation of 302 CMR 11.00 duly issued by a law enforcement official which may result in a fine. A citation is not a DCR decision for purposes of 302 CMR 11.00.

Commercial Vehicle. Any vehicle legally registered under appropriate state or federal laws or regulations, for commercial purposes, bearing valid commercial vehicle number plates with a "commercial" designation issued by the Massachusetts Registrar of Motor Vehicles, M.G.L. c.90 or an equivalent number plate, or a trailer attached to a commercial vehicle, used primarily for the transportation or delivery of goods, wares, merchandise or equipment, or designed and used for the delivery of utility services or for field services related to the maintenance/repair of buildings and operated by a legally licensed operator with a valid commercial license and valid insurance, including, but not limited to, apportioned vehicle, hearse, livery vehicle, taxi, official emergency vehicle, or government vehicle.

Commissioner. The Commissioner of the Massachusetts Department of Conservation and Recreation (DCR) or his or her designee.

Construction Activity. Any activity conducted on DCR property, including, but not limited to, DCR roads, boulevards, parkways, sidewalks and lands, for which a construction and access permit issued by the Department is required. Construction activity may include, but is not limited to, excavation, digging, or the opening of any surface of DCR property, whether such work is to be conducted by a private party, a commercial entity, government agency, government body or its agent.

Crosswalk. The point or portion of a roadway, parking area, or other location on DCR property,

ordinarily included within the extensions of the sidewalk lines, or, if none, then the footpath lines, or areas, at any place in a roadway, clearly indicated for safe pedestrian crossing of vehicular flow so indicated by markings on the road surface, other markings, signs, cobblestones, audibles, tactile, or the use of other contrasting surface materials.

Curb Loading Zone. A space adjacent to a curb reserved or designated by markings, signage, or other method indicating the exclusive use of vehicles during the loading or unloading of materials.

Curb Marking. That portion of a curb, the painting of which has been authorized by the Commissioner or his or her designee, and which serves as a supplementary warning of a parking restriction. Curb markings alone shall not be construed to be adequate warning for the purpose of enforcement.

DCR or the Department. The Massachusetts Department of Conservation and Recreation.

DCR Personnel. A person designated by the Commissioner to be responsible for the supervision, operation, protection and maintenance of a specifically designated DCR property.

DCR Property. Property, real or personal, in which the DCR has a legal interest including property under the care, custody, or control of the DCR. Such property may include, but is not limited to, grassland, reservations, parks, forests, beaches, tidelands, pools, skating rinks, golf courses, campgrounds, rail trails, bike trails, forest roads, forest ways, ponds, lakes, parking areas, trailheads, parkways, boulevards, roadways, facilities, and structures.

DCR Ranger or Ranger. Any person duly appointed by the Department to perform the duties of a DCR ranger pursuant to M.G.L. c. 92, §34B or M.G.L. c. 132A, § 7A.

Double Parking. Stopping, standing or parking a vehicle alongside or opposite a vehicle or other object which is parked at a curb or on a DCR roadway or other DCR property when stopping, standing or parking would obstruct traffic.

Driveway (*see* Boulevard, Parkway or Roadway as defined in 302 CMR 11.02).

Electric Bicycle. A two- or three-wheeled vehicle that: (i) is equipped with fully operable pedals, a seat or saddle for the rider and an electric motor of no more than 750 watts; and (ii) is a Class 1, Class 2 or Class 3 electric bicycle.

- (1) Class 1 electric bicycle. An electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches or exceeds 20 miles per hour.
- (2) Class 2 electric bicycle. An electric bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches or exceeds 20 miles per hour.
- (3) Class 3 electric bicycle. An electric bicycle, other than a Class 1 electric bicycle, equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches or exceeds 28 miles per hour.

Emergency Area. Any roadway, service way, gate, or other DCR property used by a police department, fire department, ambulance or first responders, or Department employees for purposes of access or egress.

Emergency Artery. Any roadway or other DCR property designated as such by the Commissioner.

EOEEA. Executive Office of Energy and Environmental Affairs.

EPO or Massachusetts Environmental Police Officer. A police officer of the Office of Law Enforcement, within the Executive Office of Energy and Environmental Affairs, with the authority to enforce all DCR regulations and Massachusetts laws, on DCR property and DCR roadways.

Eviction. A type of enforcement whereby a person in violation of a DCR regulation or other Massachusetts or U.S. law or regulation is ordered to leave DCR property for a period of time.

Excavation. Any digging or opening into the surface of DCR property.

Gate – Access Area. A gate or opening or other structure which serves to mark an access or egress point at a DCR roadway or other DCR property.

Government Vehicle. Any vehicle registered to a city, town, or county in the Commonwealth of Massachusetts, or registered as a state vehicle of the Commonwealth of Massachusetts itself or to any official agency or agent thereof, registered to any other state, state official or agency of the United States, or registered to the federal government of the United States or a federal official or agency thereof. These vehicles must bear distinctive license plates displaying all current and proper indication of the vehicle's use as a government vehicle in order to be considered exempt from DCR parking regulations referred to in 302 CMR 11.00.

Intersection. The area embraced within the extensions of lateral curb lines or, if none, then the lateral boundary lines, of intersecting ways, as defined in M.G.L. c.90, § 1, including divided ways.

Lane or Travel Lane. A longitudinal division of a DCR roadway of sufficient width to accommodate the passage of a single line of vehicles, whether or not the bounds of the lane are indicated by pavement markings or longitudinal construction joints.

Law Enforcement Officer/Official. Any duly certified government law enforcement official or officer, including, but not limited to, the following: environmental police officer, Massachusetts state police officer, municipal police officer, other municipal law enforcement official, U.S. government law enforcement officer or official, or Massachusetts county law enforcement officer or official.

Live Parking. The standing of an occupied vehicle.

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MEPA. The Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61 through 62I, and its implementing regulations at 301 CMR 11.00: *MEPA Regulations*.

Metered Parking. Parking at any device placed or erected on any roadway for the regulation and control of parking, including, but not limited to, multi-space meters, pay-and-display machines, and single parking meters.

Motor Vehicle. Has the same meaning as “motor vehicles” set out in M.G.L. c. 90, § 1.

Motorized Conveyance. Any conveyance powered by a motor, other than a motor vehicle. For purposes of 302 CMR 11.00, an Electric Bicycle, as defined in 302 CMR 11.02, is not a Motorized Conveyance.

Obstruction.

- (a) Any fixed object, such as, but not limited to, a fence, post, pole, wall, ditch, or any movable object such as, but not limited to, a gate, barrel, tank, motor vehicle or truck whether registered or unregistered, temporary structure of metal or wood, or other physical barrier which might prevent pedestrian or vehicular access, including, but not limited to, firefighters or firefighting equipment or any other emergency or other vehicle traffic;
- (b) Standing, stopping or parking a vehicle as to obstruct pedestrian or vehicular access to any Department of Conservation and Recreation street, roadway, parkway, service way, gate or property.

Operate. To ride in or on, and be in actual physical control of, the operation of any vehicle or vessel.

Operator. An individual who operates, drives, controls or otherwise has charge of or is in actual physical control of a mechanical mode of transportation, or any other mechanical equipment or vehicle.

Park or Parking. The stopping or standing of a vehicle, whether occupied or not, except a vehicle is not parked if it has stopped temporarily because its movement is obstructed, or the operator is lawfully engaged in loading or unloading passengers or materials, or the operator is following the direction of a law enforcement officer, DCR ranger, DCR personnel, traffic signs, traffic signals, is making emergency repairs, or it is a disabled vehicle and arrangements are being made to remove such vehicle.

Parking Area or Parking Lot. Any DCR property or part thereof, designated, and/or posted, marked, or directed by DCR personnel, DCR ranger or other law enforcement official, to be used for the stopping, standing or stationing of parked vehicles, in accordance with all applicable Massachusetts laws and regulations.

Parking Violation. A written notice issued by a DCR ranger or other authorized law enforcement official that shall record the occurrence and fine involved due to a person’s actions in violation of one or more DCR parking rules or regulations in 302 CMR 11.00.

Parkland. All areas within DCR property, including, but not limited to, grass, dirt, or other unpaved areas. (See also 302 CMR 11.02: DCR Property.)

Parkway. Any boulevard, roadway, way or any portion thereof, under the ownership or jurisdictional care, custody or control of DCR, between regularly established curb lines or that part, exclusive of shoulders, improved and intended to be open and used for vehicular traffic by the public on a public way, including vehicular and/or pedestrian, bicycle, electric bicycle, or other DCR approved traffic.

Passing Zone. That portion of a DCR roadway in which a vehicle lawfully may proceed past the left side of another vehicle traveling in the same direction as the passing vehicle.

Pedestrian. Any person afoot or riding on a human-powered conveyance other than a bicycle or tricycle.

Permit. A duly issued, written, fully revocable license from DCR authorizing a permittee to engage in uses or activities on DCR property that are otherwise prohibited, restricted, or regulated.

Person. Any individual, corporation, firm, partnership, company, association, trust, or other business or non-profit organization; any agency, department, board, commission, quasi-public agency or authority of the Commonwealth; and any Federal, municipal, or regional governmental or intergovernmental agency, department, board, commission, authority, or other entity, or any combination of individuals or entities, including, but not limited to, those listed above, their agent, trustee, executor, receiver, assignee, or other representative thereof.

Pleasure Vehicle. A vehicle used for personal, recreation, or commuting purposes which has a vehicle weight rating or curb weight of 6,000 pounds or less as per manufacturer's description of said vehicle or is a sport utility vehicle or passenger van; or which is a pickup truck or cargo van of the ½ ton, ¾ ton, or one ton class as per manufacturer's description of said vehicle; or which is a vehicle used solely for official business by any college or university police department whose officers are appointed as special police officers by the colonel of the state police under M.G.L. c. 22C, §63.

Post or Posting. To display in a place of public view in electronic or printed form.

Project. Any work or activity undertaken by a Person.

Railroad Crossing including Street Railways. Any intersection of ways with a railroad right of way.

Roadway. Any boulevard, parkway, way or any portion thereof, under the ownership or jurisdictional care, custody or control of DCR, between regularly established curb lines or that part, exclusive of shoulders, improved and intended to be open and used for vehicular traffic by the public on a public way, including vehicular and/or pedestrian, bicycle, electric bicycle, or other DCR approved traffic.

Rotary Traffic. The counter-clockwise operation of a vehicle around a traffic island or other structure in a DCR roadway.

Roundabout Traffic. The counter-clockwise operation of a vehicle around a traffic island or other structure in a DCR roadway.

Section 61 Finding(s). The findings issued by the Department pursuant to the Massachusetts Environmental Policy Act (MEPA).

Service Way. See 302 CMR 11.02: Boulevard, Roadway or Parkway.

Shoulder. That part of the surface of a DCR roadway lying outside the travel ways.

Sidewalk. That portion of a DCR property or DCR roadway typically for pedestrian use.

Sign. A sign, lights, signal, barrier, marker, marking, cone, barrel, or similar device or indicator, whether the means of display or indication is mechanical, electrical, acoustical, or another means, that DCR uses or causes to be deployed for the purpose of regulating traffic, parking or other activity on a roadway.

Special Use Permit. A written agreement that authorizes a person to engage in uses of or activities on DCR property on a specific date and time, which uses exceed in any way the common use of DCR property, or that are otherwise prohibited, regulated or restricted.

Stand or Standing. The halting of a vehicle, whether occupied or not, on a DCR roadway or DCR property, other than for the purpose of, and actually engaged in receiving or discharging passengers on DCR property.

Stop or Stopping. Any halting of a vehicle on a DCR roadway or other DCR property, even momentarily, whether the vehicle is occupied or not. When necessary, a driver may be required to stop by order of a DCR ranger or other authorized law enforcement official, or in compliance with a traffic control signal or device or to avoid conflict with other traffic for public safety.

Street. See 302 CMR 11.02: Boulevard, Parkway or Roadway.

Substantial Increase in or Impact on Traffic. A Project that meets or exceeds any of the following thresholds:

- (a) generation of 2,000 or more new ADT on Parkways providing access to a single location;
- (b) generation of 1,000 or more new ADT on Parkways providing access to a single location and construction of 150 or more new parking spaces at a single location;
- (c) construction of 300 or more new parking spaces at a single location; or
- (d) creation of a change in the type, pattern, or timing of traffic that is determined by DCR to generate a significant impact on traffic flow and safety. For the purposes of 302 CMR 11.02: Substantial Increase in or Impact on Traffic, “new” means ADT or parking spaces generated by a project above and beyond the ADT or parking spaces in existence as of the time of the Construction and Access Permit application.

Taxi, Taxi Cab or Cab. A motor vehicle bearing a valid number plate with a “taxi” designation issued by the Massachusetts Registrar of Motor Vehicles or an equivalent number plate. Motor vehicles in active use for ride-sharing services shall also be included in Taxi, Taxi Cab or Cab.

Trackless Trolley. See “trackless trolley” as defined in M.G.L. c. 90, § 1.

Traffic. Pedestrians, bicycles, electric bicycles, ridden or herded animals, vehicles, buses, street cars, trolleys and other conveyances, either singly or together, while using any DCR property, roadway, boulevard or parkway, for the purpose of travel or recreating.

Traffic Control Signal or Device. Any sign, signal, marking or other device, used on DCR property or roadways, boulevards or parkways to regulate, warn, guide or otherwise control or regulate traffic or parking, whether by using colored lights whereby traffic may alternately be directed to stop, slow, use caution, turn, or proceed in any particular direction. Such indications may be manual, electronic, mechanical, or acoustic.

Trail. An established and designated linear path or route designed and maintained for recreational activities.

Trailer. See “trailer” as defined in M.G.L. c. 90, § 1.

Travel Lane. Means 302 CMR 11.02: Lane.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon DCR roadways, boulevards, parkways or other DCR property.

Way. Any public highway, private way laid out under authority of statute, dedicated to public use, or a way under the control of DCR and defined in 302 CMR 11.02: Roadway, Boulevard or Parkway.

Weather Emergency. Any threatening weather conditions, as determined by the Commissioner or his/her designee.

Yield. Any vehicle shall allow a pedestrian to cross a roadway within a marked crosswalk, and an operator shall not pass any other vehicle which has slowed or stopped to permit a pedestrian to cross at a marked crosswalk. Yield the right-of-way when posted by a sign means that the operator of a vehicle shall bring the vehicle to a complete stop before entering the posted intersection or area. Yield does not apply if the driver of a vehicle approaching a “Yield” sign is able to enter the posted intersection or area safely without causing interference or harm to approaching vehicular or pedestrian traffic.

11.03: Rules Relating to Vehicular Traffic

- (1) A person shall operate a vehicle on any DCR roadway or other DCR property in conformance with the requirements of M.G.L. c. 90 and all rules and regulations issued therefrom.

- (2) “Pleasure Vehicle Only” Roadways. Unless otherwise authorized by a permit duly issued by the Department, designated roadways posted as allowing only pleasure vehicles may be utilized only by pleasure vehicles. The designation of such roadways will be made by posting.
- (3) No person may operate a motor vehicle on DCR property with a purpose inconsistent with the defined, designated or posted use of that DCR property.
- (4) The operator of a vehicle shall obey the instructions of any official traffic control sign, traffic control signal, device, marking or legend unless otherwise directed by a DCR ranger, authorized law enforcement officer or authorized DCR personnel.
- (5) No person may obstruct the free passage of vehicles or persons on DCR roadways or other DCR property.
- (6) Entrance on and exit from DCR roadways or other DCR property by vehicular traffic shall be made over designated areas only.
- (7) No person may operate a vehicle on any DCR property, driveway, boulevard, roadway, parkway, bridge, or dam at a rate of speed greater than is reasonable, proper and safe, with regard to traffic, the use of the way, and the safety of the public; and in no event shall a person operate a vehicle in excess of any posted limits.
- (8) All vehicles shall be operated on the right-hand side of the traveled portion of any DCR roadway, bridge, dam or other DCR property except when passing another vehicle, provided, however, that passing another vehicle shall be permitted in the right-hand lane of any roadway, dam, bridge or other DCR property, if such a way has two or more marked lanes for traffic movement that is restricted to one direction.
- (9) Authorized DCR personnel or authorized law enforcement officials may divert vehicular traffic or pedestrians, when necessary, to avoid congestion or to promote safety and convenience. No person having charge of a motor vehicle may refuse or neglect to stop or position a vehicle when directed by a DCR ranger, authorized law enforcement official, or other authorized DCR personnel, or when indicated by signs, markings or barriers.
- (10) No unauthorized person may signal or stop the operator of any vehicle or approach its occupants for the purpose of soliciting a ride; soliciting a service, legal or otherwise; selling or distributing any merchandise; advertising any matter; soliciting or offering any ticket of admission; begging; or any other solicitation in violation of any criminal or civil laws or regulations of the Commonwealth or the United States.
- (11) Commercial Vehicle Rules. A commercial vehicle traveling on or otherwise utilizing a DCR roadway or other DCR property must display identifying information permanently painted or sealed/adhered and plainly marked on both sides of the vehicle’s body.
- (12) Rotary or Roundabout Rules. Within the areas specified and posted by DCR for rotary

traffic or roundabout traffic, operators shall proceed only in a counter-clockwise direction, except when otherwise directed by an authorized law enforcement official. Vehicles approaching a rotary or roundabout must yield to traffic in a rotary or roundabout before proceeding into the rotary or roundabout

(13) Bicycle Rules. All pedestrians, bicycle, electric bicycle, and other vehicle operators on DCR roadways and other DCR property shall abide by all Massachusetts laws and regulations regarding bicycles and electric bicycles, including, but not limited to, bicycle and electric bicycle operation and equipment, in M.G.L. c. 85, §§ 11B, 11B1/2, and 11D.

(14) Motorized Conveyances. No person may operate a motorized conveyance on a DCR boulevard, roadway, parkway, way, or any portion thereof, except in accordance with laws and regulations relating to registration and operation, including, but not limited to, those in M.G.L. c. 90. Motorized Conveyances are not permitted on sidewalks or on improved or natural surface trails.

(15) The use of electric bicycles is prohibited on sidewalks or on improved or natural surface trails, regardless of trail width or other conditions, except that Class 1 electric bicycles are permitted as follows: (a) on improved DCR trails of 8 feet in width or greater; (b) in places where vehicular traffic is permitted and bicycles are not otherwise prohibited; and (c) in bicycle lanes on DCR roadways.

(16) The use of Class 2 and Class 3 electric bicycles is permitted as follows: (a) where vehicular traffic is permitted and bicycles are not otherwise prohibited; and (b) in bicycle lanes on DCR roadways.

(17) No person may operate a vehicle other than a pleasure vehicle upon any DCR roadway or DCR property which is restricted to pleasure vehicles only except with a permit issued by the Commissioner, provided, however, that vehicles having a gross vehicle weight of less than 5,000 pounds and a maximum overall height of seven feet or less and which are registered for commercial use are permitted. Those vehicles which are prohibited may gain access to a destination situated on, or only accessible by, the use of a restricted DCR roadway by entering from the nearest unrestricted DCR roadway and exiting in the same manner; provided, however, that in no case shall a person operate a vehicle having a gross vehicle weight in excess of ten tons upon any DCR roadway or DCR property except by express written consent of the Department.

(18) Horsedrawn Vehicles. No person may ride or drive a horsedrawn vehicle on a DCR roadway or other DCR property without a permit issued by the Department or where limited by official signs posted in accordance with M.G.L. c. 22, §20, 520 CMR 13.00: *The Operation of Horse Drawn Carriages for Public Hire on Public Roads and Ways of the Commonwealth to Ensure Public Safety*, and 720 CMR 9.08(2): *Limited Access and Express State Highway Regulations*.

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(1) Any violation of the parking provisions of 302 CMR 11.04 on DCR roadways and other DCR property, as defined in 302 CMR 11.00, shall be considered a violation of 302 CMR 11.00 and punishable by a citation. If applicable, any other Massachusetts laws or regulations shall apply on DCR roadways or other DCR property, and may be enforced as applied.

(2) General Parking Rule. No person may stop, stand or park any vehicle in any roadway or service way of the Department in violation of any rules, regulations or laws of DCR, the Commonwealth, municipal or federal laws, regulations or by-laws, except when necessary to avoid conflict with traffic, when complying with the directions of a DCR ranger or authorized law enforcement officer, or other authorized DCR personnel, or complying with a traffic sign or traffic control signal.

(3) No Stopping. No person may halt a vehicle even momentarily, whether occupied or not, except in compliance with the directions of a DCR ranger or authorized law enforcement officer, or other authorized DCR personnel, or traffic control sign or signal.

(4) Fire Hydrant. No person may park within ten feet on either side of a fire hydrant.

(5) Intersection. No person may park within 40 feet of an intersection.

(6) Restricted Areas. No person may stop, stand or park any vehicle in or on any DCR property or DCR roadway or allow, permit or suffer any vehicle registered in his or her name to stand or park in any DCR roadway in violation of any rules of DCR, except when necessary to avoid conflict with other traffic or in compliance with the direction of a DCR ranger or authorized law enforcement officer, or other authorized DCR personnel, or traffic sign or signal, and for the purpose of and while actually engaged in receiving or discharging passengers.

(7) Time Limitation. No person may park a vehicle upon any DCR roadway or any other DCR property for a period of time longer than that posted. Parking the same vehicle more than one time in a 12-hour period at an area where signage indicates restricted time limits is prohibited. If no time is posted, the maximum length of time that any vehicle may be parked on a DCR roadway is seven days.

(8) Emergency Restrictions.

(a) Emergency Areas. No person may stop, stand or park a vehicle in an area on a DCR roadway or other DCR property designated as an emergency area by the Department.

(b) Creating Emergency Condition. No person may stop, stand or park a vehicle in a manner which would create an emergency condition or cause unusual delay to vehicular, pedestrian or other traffic.

(c) Emergency Rules. If it is the judgment of the Commissioner that threatening weather conditions or other impending emergency conditions exist that may impair the free flow of traffic, the clearance of snow, maintenance of DCR roadways, or

other public safety concerns, the Commissioner may declare a state of emergency.

Whenever an “emergency” is declared by the Commissioner, he or she shall cause the announcement thereof to be made by the use of available news and other media outlets, so that the following prohibitions shall become effective:

1. Vehicle Obstruction during an Emergency. During an emergency, any vehicle stopped, parked or standing in a manner that obstructs the free flow of traffic on DCR property shall be considered in violation of 302 CMR 11.00.
2. Parking During an Emergency. No driver shall stop, stand or park any vehicle on any designated DCR roadway during a declared emergency. 302 CMR 11.00 shall not apply to public transit vehicles, or other passenger vehicles stopped temporarily during the actual receiving or discharging of passengers.
3. Parking During Snow Accumulation. No person shall allow, permit or suffer any vehicle registered in his/her name or within his or her control or operation, to stand, park or remain upon any DCR roadway until the section of the DCR roadway used for vehicular travel has been cleared of snow, ice or debris, to within 12 inches of the curb or edge of the DCR roadway.

(9) Bicycle Lane Stopping or Parking. No person may stop, stand or park any vehicle in any bicycle lane of the Department.

(10) Obstructing Snow Plowing, Snow Removal, Street Cleaning or Maintenance Equipment. Notwithstanding any other provisions of 302 CMR 11.00, no person may park a vehicle on DCR roadways where parking is prohibited by signs or markings, either temporary or permanent, or where parking is done in a manner that interferes with the removal or plowing of ice, snow or debris, the cleaning of DCR roadways, or the maintenance of DCR roadways.

(11) Double Parking is prohibited on the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(12) Obstructing Public Transportation. No person may park in such a manner as to obstruct the movement of any street car, trackless trolley, bus or railroad train on any DCR roadway or other DCR property.

(13) Public Transportation Stop. No person may stop, stand or park a vehicle at a designated public transportation stop.

(14) Obstructing Driveways, DCR Roadways, Service Ways or Gates, Access Areas, Public Transportation Stop, Emergency or Other Restricted Areas. No person may stop, stand, or park a vehicle, whether occupied or not, in a manner which obstructs a public or private driveway, DCR roadway, service way or gate, or any other DCR property, in such a manner as to obstruct the passage of pedestrian or vehicular traffic as defined in 302 CMR 11.00, unless it is conducted momentarily with the purpose of picking up or discharging a passenger or passengers or if such obstruction has been consented to by the owner of the obstructed way or if directed to do so by a DCR ranger, authorized law enforcement officer or other authorized DCR personnel.

- (15) Obstructing Crosswalks or Sidewalks. No person may stop, stand, or park a vehicle, whether occupied or not, in a manner which obstructs a crosswalk or sidewalk on DCR property, in such a manner as to obstruct the passage of pedestrian or vehicular traffic as defined in 302 CMR 11.00.
- (16) Expired/Invalid Registration Plate: No person may stop, stand or park an improperly registered vehicle on any Department roadway or other DCR property.
- (17) Expired/Invalid Certificate of Inspection. No person may stop, stand or park a vehicle with an expired or invalid inspection certificate on any Department roadway or other DCR property.
- (18) Railroad or Street Railway Crossing. No person may park within 20 feet of the nearest rail of any grade crossing on a DCR roadway or other DCR property.
- (19) Travel Lane. No person may stop, stand or park a vehicle within the travel lane of a DCR roadway, unless authorized by a DCR ranger or other authorized law enforcement officer or authorized DCR personnel.
- (20) Bridge, Viaduct, Underpass, Tunnel, Traffic Island. No person may stop, stand or park a vehicle upon any bridge or viaduct, or in any underpass or tunnel or the approaches thereto or exits therefrom, or on or along any traffic island, unless signs permitting parking have been placed or erected on a DCR roadway or other DCR property.
- (21) Fire Station Exit or Entrance. No person may park within 20 feet of a driveway entrance or exit of any fire station, or on the side of a DCR roadway opposite the entrance or exit of any fire station within 75 feet of said entrance or exit.
- (22) Parking in the Wrong Direction. No person may stop, stand or park a vehicle in the opposite direction of the flow of traffic on that side of the street on which the vehicle is stopped, standing or parked.
- (23) Parking More than One Foot from the Curb. No person may stop, stand or park a vehicle on a DCR roadway unless both wheels on the side of the vehicle adjacent to the curb or edge of the roadway are within 12 inches of the curb or edge of the roadway.
- (24) Designated Parking Spaces. No person may park outside of the lines of spaces designated by demarcation, or outside of the periphery of cones or other parking designations, whenever such demarcation or designation is provided.
- (25) Loading Zone, Angle Loading or Unloading Rules. No person may stop, stand or park a vehicle on any DCR roadway for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a curb loading zone during the hours when the provisions applicable to such zones are in effect. In no case may the stop for loading and unloading of materials exceed 30 minutes.

- (26) Handicap Parking. No person may stop, stand or park in any area designated by an official sign indicating the location is reserved for parking for disabled persons or their vehicles, unless such vehicle bears legally authorized, current and valid, handicap parking (HP) plates, HP placard, or disabled veteran (DV) placard or plate issued by any state government. Placards shall be displayed on the dashboards of vehicles if there is no license plate designation, or in certain instances a placard may be hung from a rear view mirror. There are no exemptions to this section.
- (27) Handicap Ramp. No driver may stop, stand, or park a vehicle in front of or within 20 feet of a pedestrian sidewalk, ramp, or other access or handicap ramp. No exemptions will be given, including to HP or DV plates or placards, unless a vehicle with a HP or DV plate or placard is using an on-street parallel handicap parking space and the accessible path to the handicap ramp is within 20 feet of the parking space. Ramps located within 20 feet of an intersection do not require a sign to prohibit parking.
- (28) Gate - Access Area. No person may stop, stand or park a vehicle in front of a DCR property access, egress, fire or other gate or area, or within 20 feet of either side of such gate or access area.
- (29) Parkland. No person may stop, stand or park a vehicle upon DCR parkland unless designated by sign or directed to do so by a DCR ranger, authorized law enforcement official or authorized DCR personnel. No sign is required to notify the public that parking on DCR parkland is prohibited.
- (30) Live Parking is prohibited unless authorized on a temporary basis by a DCR ranger, authorized law enforcement officer or other authorized DCR personnel.
- (31) Taxi-Cab – Cabstands. Operators of taxis or taxi-cabs shall park only in areas designated by sign or permit issued by the Department.
- (32) Resident Permit Parking.
- (a) General: No driver may stop, stand, or park in an area signed “Resident Permit Parking Only”, unless that vehicle bears a valid and appropriate resident sticker as issued by the given city or town, if applicable, or unless the vehicle has a valid permit issued by the Department.
- (b) Government Vehicles. A vehicle bearing an appropriate license plate or other visible window placard indicating the use of the vehicle by a government employee while conducting government work in the area will be exempt from resident permit parking restrictions during work hours.
- (c) Commercial Vehicles. A commercial vehicle engaging in an authorized commercial use is exempt from resident permit parking restrictions on DCR roadways for up to three hours. Parking a commercial vehicle for more than three consecutive hours requires a DCR permit.

- (33) Metered Parking. The operator of a vehicle shall proceed to the nearest multi-space meter, pay and display machine, single space meter, or other type of meter, or use any other provided means of fixed or mobile parking fee payment, and shall pay the required parking fee in the manner and amount indicated, and, if applicable, display the paid receipt clearly and in an unobstructed position upon the dashboard of the vehicle in accordance with the instructions on the receipt. No owner or operator of any vehicle, upon entering a metered parking space, shall fail to immediately deposit the required fee, unless the space is one in which a valid Annual Park Pass or valid Senior Citizen Pass is accepted, or the vehicle bears a disabled veteran number plate or is displaying a valid handicapped hang tag.

11.05: Rules Relating to Pedestrians

(1) Pedestrians Crossing DCR Roadways.

- (a) Pedestrians shall obey the directions of any DCR ranger, authorized law enforcement official or other authorized DCR personnel directing traffic, and whenever there is such an authorized official directing traffic, any traffic control signal, traffic control sign, traffic control device, or a marked crosswalk within 300 feet of a pedestrian, no pedestrian shall cross a roadway except within the limits of a marked crosswalk and as hereinafter provided in 302 CMR 11.00.
- (b) A pedestrian may cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication.
- (c) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or other procession or authorized emergency vehicle while in the performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the DCR roadway until such vehicles or procession has passed, at which time pedestrians shall then cross the roadway only as provided in 302 CMR 11.00.

(2) Pedestrian Obedience to Traffic Control Signals. Traffic control signal color indications and legends shall have the pedestrian commands ascribed to them and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an authorized police officer, DCR ranger, or other authorized DCR personnel.

(3) Pedestrian Crossing and Use of DCR Roadways and Other DCR Property.

- (a) No pedestrian may suddenly leave a sidewalk or safety island and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right of way.
- (b) Where sidewalks are provided and open for pedestrian use, it shall be unlawful for any pedestrian to walk along or upon the adjacent roadway.
- (c) Where sidewalks are not provided, any pedestrian walking along and upon

an undivided roadway shall, when practicable, walk only on the left side of the roadway on its unfinished shoulder facing traffic which may approach from the opposite direction.

- (d) Persons alighting from the roadway side of any vehicle parked at the curb or edge of a DCR roadway within 300 feet of a marked crosswalk shall proceed immediately to the sidewalk or edge of the roadway adjacent to the vehicle, and shall cross the roadway only as authorized by 302 CMR 11.00.
 - (e) No person may actuate a pedestrian control signal or enter a marked crosswalk unless a crossing of the roadway is intended.
- (4) Crossing at Non-Signalized Locations. Every pedestrian crossing a roadway at any point other than within a marked crosswalk shall yield the right of way to all vehicles upon the roadway. At a point where a pedestrian tunnel or overpass has been provided, pedestrians shall cross the roadway only by the proper use of the tunnel or overpass.
- (5) Obedience of Bridge Signals. No pedestrian may enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.
- (6) Exemptions. The provisions of 302 CMR 11.05 governing the use of DCR roadways or other DCR property by pedestrians shall not apply to pedestrians actually engaged in work upon a DCR roadway or other DCR property closed to travel or under construction or repair; to municipal, state, federal or public service corporation employees while in the performance of their duties; to authorized law enforcement officials or other authorized DCR personnel engaged in the performance of their public duties; or to pedestrians acting in an emergency when such emergency necessitates departure from any part of 302 CMR 11.00.
- (7) Pedestrians Soliciting Rides or Business. No person may stand in a travel lane for the purpose of soliciting a ride, employment or business from the operator or occupant of any vehicle without a permit issued by the Department.

11.06: Rules Relating to Treatment of DCR Property

- (1) Piling Snow on DCR Property or Roadways. No person, other than an employee of the DCR or an employee in the service of an independent contractor legally acting on behalf of the DCR, may pile, push or plow snow or ice onto any DCR roadway or other DCR property.
- (2) Snow and Ice on Sidewalks. No person owning or operating land abutting a sidewalk or DCR roadway may place or suffer to remain, for more than three hours between sunrise and sunset, any snow upon such sidewalk, or any ice upon such sidewalk or DCR roadway, unless such ice is made even and covered with sand, sawdust or other appropriate material for the purpose of preventing pedestrian or vehicular slipping; nor may any person remove ice or snow from privately owned property and place them upon any DCR sidewalk, DCR roadway or other DCR property.

11.07: Permits – General

(1) General Provisions

- (a) A duly issued permit from the DCR is a fully revocable license authorizing a permittee to do something otherwise prohibited by the Department.
- (b) In a duly issued permit, and subsequent to issuance, the Department may place stipulations on the permitted use, including, but not limited to, the type of use, timing, location, duration and volume.
- (c) An applicant must comply with any and all terms and conditions contained within a permit. Any act authorized pursuant to a permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.
- (d) Unless otherwise stated in the permit, a permittee is solely and exclusively responsible for all utility costs including, but not limited to, gas, electricity, heat, telephone, water and sewer.
- (e) A permittee must comply, at the permittee's exclusive expense, with all applicable federal, state and local statutes, laws, ordinances, rules, regulations and policies.
- (f) A permit does not confer on the permittee any rights in real property.
- (g) A permittee may not assign, delegate, sublease, transfer or otherwise dispose of its management responsibilities or of any right, duty, interest or use of the DCR property which is the subject of the permit, except as provided by such permit.
- (h) All person(s) requesting a permit must agree, in writing, to indemnify, defend and hold the Commonwealth, the DCR, its employees and agents harmless against all claims relating to or arising out of the use of DCR property and from any claims for personal injury or death or damage to personal property, of whatever kind or nature, arising from the permittee's activities in the permitted area, including, but not limited to, claims arising from the recklessness, negligence or carelessness of the permittee, its contractors, agents, representatives, employees, permittees, licensees, guests and invitees, as authorized therein and claims arising from the permittee's failure to provide adequate security in the permitted area. The Department may also require the permittee to obtain liability insurance with limits of coverage sufficient to support the permittee's obligation to indemnify and hold the Commonwealth and DCR harmless.
- (i) The permittee shall agree in writing not to make any claims against the Commonwealth or the DCR for any injury, loss or damage to persons, including, but not limited to, bodily injury or death, or damage to property arising out of or in connection with the actions or omissions of the permittee, its contractors, agents,

representatives, employees, permittee, licensees, guests and invitees, as authorized therein.

- (j) The permittee shall, in writing, assume all risk in connection with any and all activities engaged in within the permitted area and shall be solely responsible and answerable in damages, and any other equitable remedies, for all accidents or injuries to all persons or property caused by the permittee's activities.
- (k) Should it become necessary to enforce the terms of a permit in a court of law or in an administrative proceeding, the permittee shall pay all reasonable attorney's fees.
- (l) No person shall use or occupy DCR property or facilities for which a fee or other charge has been established unless the person has first paid such fee or charge, unless otherwise authorized.
- (m) In addition to the payment of the prescribed fee, DCR may reasonably require the Permittee to pay the costs for authorized DCR personnel, or to hire appropriate law enforcement personnel.
- (n) DCR may limit public access to parkland and other DCR property when a permit has been duly issued for use of parkland or other DCR property.
- (o) The Department is authorized to issue special permits to allow the backing of a vehicle to a curb for the purpose of loading or unloading merchandise or materials subject to the terms, conditions, times and dates of such permits. Such permits may be issued either to the owner or lessee of real property or the owner of a vehicle, and shall grant to such person the privilege as therein stated and authorized herein.

(2) Special Use Permits

- (a) A special use permit application may be downloaded from the DCR website. The application must be made in writing and must include applicable additional information including, but not limited to, route maps, site set-up diagrams, vendor listings, and vehicles to be used.
- (b) A special use permit application must be submitted to the Department at least 45 days prior to the event or activity for which a permit is sought.
- (c) A permittee must submit a certificate of liability insurance to the DCR prior to the event. Such certificate must name DCR as an additional insured for the date and location of the event, with a minimum liability of \$1,000,000. Failure to provide the certificate of liability insurance may result in revocation of the special use permit.
- (d) A special use permit shall be issued only after payment of the application fee and any other duly requested costs associated with the permitted event or activity.

- (e) Special use permits are issued at the sole discretion of the Department.
- (f) An applicant for a special use permit must comply with any terms and conditions contained within the special use permit, as well as those provisions contained within 302 CMR 12.17(1): *General Provisions*. Any act authorized pursuant to a special use permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

11.08: Construction and Access Permits

(1) General.

- (a) No DCR parkway or other DCR property may be dug up or physically modified, nor opening made therein, for any purpose without a construction and access permit. In addition to the foregoing, a construction and access permit shall be required, prior to the commencement of work on a project, for:
 - 1. a change in use of an existing residential or commercial driveway onto a DCR parkway or other DCR property that results in a substantial increase in or impact on traffic over the current use; or
 - 2. construction of new, or change in use of an existing, residential or commercial driveway from properties that abut DCR parkways or other DCR property to serve a building or facility, or expansion of a building or facility, that generates a substantial increase in or impact on traffic over the current use.
- (b) No material may be dumped or placed on a DCR parkway or other DCR property. No tree may be planted or removed or obstruction or structure placed on a DCR parkway or other DCR property or removed therefrom or changed without a written construction and access permit from the Department.
- (c) Any and all work shall be conducted according to the construction and access permit terms and conditions, to the satisfaction of the Department. The entire expense of replacing and resurfacing the parkway or other DCR property at the same level and in as good condition as before the permitted work shall be borne by the permittee. All work must be performed in accordance with applicable statutes, regulations, codes or standards.
- (d) In the case of a driveway opening on a parkway, or a substantial increase in or impact on traffic, the Department may grant a construction and access permit for a driveway location or alteration only after it has been determined that there is no other means of access and egress available and that said proposed driveway is in conformance with generally accepted safety standards and any other requirements set forth in the construction and access permit, or required during the construction and access permit application process.
- (e) Transition Provision. Any project or phase thereof that meets any of the following criteria shall not be governed by 302 CMR 11.00 but shall be governed by the regulations and procedures in effect prior to May 28, 2010:

- 1. the proponent of the project has filed with the Secretary of the Executive Office of Energy and Environmental Affairs prior to May 28, 2010 a draft environmental impact report, single environmental impact report, or notice of project change following the filing of a draft environmental impact report or single environmental impact report; or

2. the proponent has received prior to May 28, 2010 a variance, special permit, comprehensive permit, a certificate of occupancy, or building permit, provided that such building permit is followed within five years thereafter by a certificate of occupancy. A project or phase thereof shall not lose eligibility for this transition provision if the proponent makes modifications that reduce the size, scope, or impact of the project or phase thereof after May 28, 2010.
- (2) Application Processing.
- (a) Submission of Application. An applicant shall request issuance of a construction and access permit on a current, standard form used by DCR and shall include all support material required on the application form, plus any additional support material deemed necessary by DCR. The application shall be filed with DCR.
 - (b) Completeness Pre-review. Any materials submitted for DCR review as part of a construction and access permit application will be date-stamped by the Department upon receipt. Upon receipt, DCR shall review the contents of the application to determine if any materials necessary to conduct a detailed review are missing. The pre-review process shall be followed until the DCR determines that the application contains all of the material necessary to conduct a detailed review.
 - (c) Completeness of Application. A construction and access permit application shall be determined to be complete once the following items have been received and determined to be in a format acceptable to conduct a detailed review:
 1. A completed DCR construction and access permit application form with all requested information supplied;
 2. All supporting data as listed on the application form;
 3. Evidence of EOEEA certification of compliance with MEPA, if applicable, including evidence of receipt of a waiver of or otherwise having completed MEPA for a portion of the project;
 4. Copies of all permits or similar documents related to the project including, without limitation, orders of conditions, local building permits, permits from the Army Corps of Engineers, and proof of notice to DigSafe;
 5. Engineering plans in a format acceptable to DCR to conduct a detailed review where work within a DCR parkway or other DCR property is required;
 6. Traffic management plan (for all projects which impact vehicle, bike or pedestrian traffic on parkways, bike paths, sidewalks or parking areas);
 7. Pedestrian and vehicle plan;
 8. Applicable specifications and standards from the Manual on Uniform Traffic Control Devices (MUTCD);
 9. Digital photos of project area's existing conditions;
 10. copy of the section of the USGS quadrangle map, clearly marking the project location;
 11. Complete set of plans or drawings for the project that triggers the DCR permit;
 12. Any other documentation requested by DCR as necessary to facilitate a review of the proposed work; and
 13. A check or money order payable to the Commonwealth of Massachusetts, or electronic payment as directed by DCR, for the administration application fee in the amount required by the Secretary of Administration and Finance in 801 CMR 4.02: *Fees for Licenses, Permits, and Services to be Charged by State Agencies.*

(d) Required Signatures for Construction and Access Permit Applications. The applicant must provide DCR with evidence certifying the consent to the application by the property owner(s), as required by DCR on the construction and access permit application form. If an agent is representing an applicant, the application shall include a notarized letter from the applicant outlining the specific duties and responsibilities of the agent. Where work is proposed on a municipal utility, the utility department for the municipality must sign the application as the applicant.

(e) Construction and Access Permit Issuance. Once the construction and access permit application is deemed complete, DCR shall, within a reasonable time, issue either the associated construction and access permit or a decision indicating that a permit will not be issued. Issuance of a construction and access permit will only occur subsequent to receipt of a letter from the Massachusetts Historical Commission (MHC) indicating compliance with M.G.L. c. 9, §§ 26 through 27C; or certification from the applicant that the MHC failed to determine adverse effect within 30 days of its receipt of an MHC project notification form and/or an Environmental Notification Form (ENF) pursuant to MEPA. The construction and access permit shall become effective upon issuance, subject to 302 CMR 11.08(4)(b)1.

(f) Coordination with MEPA Review.

1. For projects requiring MEPA review, DCR will comment to the Secretary of EOEEA and communicate with project proponents during the MEPA process in order to identify the project-related impacts to any DCR parkway or other DCR property and appropriate mitigation as early as possible.
2. Resolution of traffic mitigation requirements through the MEPA process will minimize reconsideration of mitigation during the DCR Section 61 findings and construction and access permit process.
3. In order to minimize damage to the environment caused by transportation-related air pollution, including greenhouse gas emissions, DCR shall, in cooperation with the Secretary of EOEEA, review and comment on measures identified in the MEPA process to avoid, minimize, or mitigate such transportation-related air pollution, and shall include as conditions in its Section 61 findings measures to avoid, minimize, or mitigate such transportation-related air pollution.
4. Early identification of mitigation will assist project proponents in planning and managing project costs. DCR coordination with MEPA review will reduce the total time required to obtain project approvals.

(g) Denial of Construction and Access Permit Application. DCR may deny the issuance of a construction and access permit if the applicant fails to provide sufficient improvements to facilitate safe and efficient operations on a DCR parkway or other DCR property, or when the construction and use of the proposed access would create a condition within the DCR parkway or other DCR property that is unsafe, that will interfere with the free flow of traffic, that endangers the public safety and welfare, that is detrimental to DCR property, or that adversely impacts DCR property.

(3) Criteria for Review of Applications.

(a) Review of Engineering Plans. The Department shall require that the engineering plans and specifications provide for safe and efficient access that protects the operational integrity of the DCR parkway or other DCR property. Plan review and approval shall be

based on the standards in the most recent Manual on Uniform Traffic Control Devices (MUTCD), including the most recent Massachusetts Amendments, plus any other standards required by the Department.

(b) Construction and Access Permit Conditions. The DCR shall condition a construction and access permit to facilitate safe and efficient traffic operations, to mitigate traffic impacts, to avoid or minimize damage to DCR property, and to avoid or minimize environmental damage during the construction period and throughout the term of the construction and access permit. Such conditions may include, but are not limited to:

1. Necessary limitations on turning movements;
2. Necessary measures to ensure the safety of pedestrians, motorists, and those engaged in the project, work, or activity contemplated under the construction and access permit;
3. Restrictions on or requirements for the number and configuration of access points to serve the land parcel;
4. Vehicle trip reduction techniques to be implemented for the development;
5. Necessary and reasonable efforts to maintain existing levels of service;
6. Design and construction of necessary parkway improvements by the permittee;
7. Reimbursement by the permittee of costs of DCR inspection of parkway improvement work;
8. Measures to avoid, minimize, or mitigate the emission of transportation-related air pollution including greenhouse gases; and
9. The requirements of the Section 61 findings of DCR, where applicable.

(c) Review of Related Projects. Construction and access permit applications shall be reviewed in the context of the section(s) of DCR parkways or other DCR property that is (are) affected by traffic to be generated by a project for which a construction and access permit is sought. Whenever practical, the DCR shall coordinate review and issuance of construction and access permits for multiple projects in proximity to each other in order to facilitate safe and efficient traffic operations and to avoid or minimize adverse environmental impacts. In cases where a proposed access is to be shared by multiple development sites, the applicant(s) shall provide evidence of the rights of access between the parties involved prior to the issuance of the construction and access permit. In these cases, a construction and access permit shall be issued for each project site under separate ownership.

(d) Section 61 Findings. For all projects that receive EOEEA certification of a Final Environmental Impact Report (EIR) which was scoped for a DCR construction and access permit, DCR will issue Section 61 findings at the applicant's request. The Section 61 findings shall indicate that DCR has completed its review of the project in the context of MEPA and that the proposed land use is approved by DCR subject to the conditions outlined in the Section 61 findings. The Section 61 findings shall be incorporated by reference into any construction and access permit to be issued by DCR for the project. The Section 61 findings will specify the driveway access and off-site mitigation measures necessary for initial occupancy of the project. Additional mitigation measures, if any, and the construction timing of these additional measures may also be specified in the Section 61 findings. Plan review of the measures not required for initial occupancy shall not delay the issuance of the construction and access permit for the project for this initial occupancy.

(4) Construction and Access Permit Provisions.

(a) Duration of Construction and Access Permits.

1. Construction. Construction of the proposed project, work, or activity within or on a DCR parkway or other DCR property under the terms of a construction and access permit must be completed within one year of the effective date, provided, however, that DCR may extend the construction and access permit by an additional one year upon written request of the applicant or permittee, provided said request is filed prior to the expiration of the original construction and access permit.

2. Use. Construction and access permits shall allow ingress and egress to and from the DCR Roadway or other DCR Property for an indefinite period, but a new construction and access permit shall be required when:

- a. Constructing, reconstructing or expanding an existing facility on the property served, which results in a substantial increase in or impact on traffic on the DCR parkway or other DCR property;
- b. Constructing a new access or modifying an existing permitted access; or
- c. A construction and access permit would otherwise be required based on 302 CMR 11.00.

(b) Any Construction and Access Permit issued under 302 CMR 11.00 shall include the following provisions:

1. Construction Under a Construction and Access Permit. Construction under a duly issued construction and access permit may commence upon 72 hours written notice (which may be delivered by facsimile or electronic mail) or logged telephone notice by the permittee to the Department.

2. Prior to the commencement of any excavation work, the permittee must notify Dig Safe to obtain location of utilities. The permittee is charged with the responsibility of reviewing all applicable plans, site visits, and any other means available to ensure that the proposed excavation work will not adversely affect any subsurface utilities, equipment or structures, including trees and tree root systems.

3. In the event an unanticipated site of archaeological or cultural significance is encountered during project implementation, project work shall be halted and DCR shall be notified.

4. If human remains are discovered during project implementation, the proponent shall halt work, secure the site, and notify the state police, the medical examiner, and the DCR staff archaeologist.

5. The permittee must agree to indemnify and hold DCR and the Commonwealth of Massachusetts harmless for all injuries to persons or property resulting or arising from the issuance of a construction and access permit. The permittee must warrant that all restorative work remain in a safe and proper condition for a period of one year after work ceases, and agree that it shall indemnify and defend any suits arising from an unsafe or dangerous condition.

(c) No action may be taken under a construction and access permit unless such construction and access permit has been issued in writing.

(d) A Construction and Access Permit is a License. Acceptance of any construction and access permit is an acknowledgment of the permittee that the construction and access permit does not confer any rights in real property of the Commonwealth of Massachusetts.

(e) Construction and access permits issued under 302 CMR 11.00 and the rights

thereunder may not be assigned or otherwise transferred without the express written consent of the Department. Requests for such assignment must be made in writing to the Department.

(f) Fees for construction and access permit applications are set forth in 801 CMR 4.02: *Fees for Licenses, Permits, and Services to be Charged by State Agencies*.

(g) Suspension or Revocation of Construction and Access Permit. DCR may suspend or revoke a construction and access permit whenever it is determined to be in the best interest of the public, in accordance with the following provisions, upon a determination that the applicant has violated any of the provisions of the construction and access permit.

1. Suspension.

a. Emergency Suspension. In the case of an emergency condition, imminently unsafe travel conditions, or other exigent circumstances within or on a DCR parkway or other DCR property, the Department may issue an emergency order immediately suspending the construction and access permit. The Department will notify the permittee of the emergency order and suspension in writing, by hand delivery or certified mail; such notification shall include the reason(s) for the suspension.

b. Standard Suspension. The Department will notify the permittee in writing by certified mail in advance of the effective suspension of the construction and access permit outlining the reason(s) for the suspension and the steps that shall be taken by the permittee in order to avoid or lift said suspension.

2. Revocation. The Department will notify the permittee in writing by certified mail of the intent to revoke a construction and access permit outlining the reason(s) for such intended revocation, and establishing a date, time, and place for a hearing, prior to revocation, as provided by M.G.L. c. 30A, § 13.

(5) Enforcement. DCR may issue written orders to enforce the provisions of any construction and access permit, order, approval, suspension, revocation or Section 61 finding.

(6) Performance Bonds. DCR may reasonably require a performance bond to be posted by the applicant for the estimated cost of the construction within or on the DCR parkway or other DCR property, and possible damages. The performance bond shall be posted by the applicant prior to the issuance of the construction and access permit.

(7) Administrative Appeals. Any person aggrieved by a DCR decision under 302 CMR 11.00 may appeal the determination, under M.G.L. c. 30A, within 21 days of a construction and access permit's issuance or denial, in accordance with 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

11.09: Variance

(1) General. The Department recognizes that the literal application of 302 CMR 11.00 to all persons and activities may impose significant hardships in individual situations, frustrate the underlying legislative and regulatory purposes, or adversely affect the public interest. Therefore, in the exercise of the Department's discretion and upon a proper and timely demonstration, a variance from the application of specific provisions of 302 CMR 11.00,

other than those that embody statutory requirements, may be available in an individual case to a person whose activities are governed by them.

- (2) Required Demonstration. A variance request shall include, at a minimum, the following information demonstrating, to the Department's satisfaction, that:
- (a) compliance with the provision would, on the basis of conditions unique to the applicant's particular situation, impose unreasonable economic, technological or safety burdens on the applicant or the public;
 - (b) substitute measures will provide the same or greater degree of protection to public health, safety and the environment as the application of the regulation(s) from which a variance is requested; and
 - (c) the desired relief may be granted without substantial detriment to the public interest and without nullifying or substantially derogating from the intent of 302 CMR 11.00.
- (3) Reasonable or Necessary. Where circumstances are appropriate, the Department may request the applicant to establish, in addition to the criteria listed in 302 CMR 11.09(2), either or both of the following:
- (a) that no reasonable conditions or alternatives exist that would allow the project to proceed without the requested variance;
 - (b) the variance is necessary to accommodate an overriding community, regional, state, or national public interest.
- (4) Request for Variance. A request for a variance may be made only by or on behalf of a person whose activities are governed by 302 CMR 11.00 and who seeks relief from its application prior to taking any action subject to and in conflict with its provisions and does so in a timely manner. The request shall be made in writing and must contain, at a minimum, the information necessary to establish the showing required by 302 CMR 11.09(2) and, where required by 302 CMR 11.09(3), in the form prescribed in 302 CMR 11.09(4)(a) through (d):
- (a) specific reference, by citation to *Code of Massachusetts Regulations*, to each regulatory provision from which relief is sought;
 - (b) an analysis and evaluation, prepared by a qualified professional, of all known technically accepted alternative methods of pursuing the activity in compliance with 302 CMR 11.09 including a detailed explanation as to each such alternative of the factual circumstances that render it unreasonable;
 - (c) a detailed description, prepared by a qualified professional, of the substitute measures intended to provide the same or greater degree of protection to the public health, safety and the environment as the application of the regulation(s) from which a variance is requested would provide, accompanied by an opinion which includes the

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basis for the qualified professional's determination that the substitute measures will in fact perform their intended function; and

- (d) evidence of an overriding public interest associated with the project which justifies a variance from the regulation(s) if required by the Department pursuant to 302 CMR 11.09(3)(b).
- (5) Filings. A person requesting a variance from 302 CMR 11.00 must file a request with the Director of the Division of State Parks and Recreation or the Director of Watershed Protection, as the case may be. Filing and service may be made by hand or by using a suitable form of mail addressed to the person to be served and requiring the return of a signed receipt.
- (6) Initial Action. The Director, after considering a request for a variance, requesting and receiving such additional information as may be required, and holding a public hearing if the public interest in the matter or the technical complexity or uniqueness of the issues warrant doing so, shall grant or refuse the request in whole or in part. If the Director grants the request in whole or in part, the Director's determination will include a specific finding that the request makes the showing required by 302 CMR 11.09(2); a specific statement that the application of certain specified regulation(s) is altered or waived; and a specification of the requirements or conditions imposed, if any. The determination of the Director is final unless, within 21 days, an appeal is taken to the Commissioner pursuant to the provisions of 302 CMR 11.09(7). The Director shall notify by mail the person requesting the variance and any abutter who has requested notice of the action taken upon the request.
- (7) Appeal to the Commissioner.
- (a) A person requesting a variance from the application of 302 CMR 11.00, or any aggrieved party, may appeal the determination of the Director to the Commissioner.
 - (b) An appeal is taken by delivering a request for a hearing to the Commissioner within the time period established by 302 CMR 11.09(6) that identifies the request for a variance, states the determination of the Director upon it, specifies why the party is aggrieved and the grounds for the appeal.
 - (c) The Department shall hold a hearing upon and determine the appeal pursuant to the provisions of 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*. In any such proceeding it shall be the burden of the person requesting the variance to demonstrate how the criteria are met.
 - (d) Notice of an appeal shall be given to the applicant by the party appealing the decision concurrently with filing the appeal.
- (8) Expiration, Modification or Suspension of a Variance. Any variance or other modification made pursuant to 302 CMR 11.09 may be subject to such qualification, revocation, suspension, or expiration as the Department expresses in the variance. A variance or other modification made pursuant to 302 CMR 11.09 may otherwise be revoked, modified, or suspended.

11.10: Revocation of Permits

- (1) All DCR permits are considered licenses, do not convey an interest in property, and are revocable at will.
- (2) Any violation of a permit by its holder, its agents, employees, contractors or guests of any term or condition therein shall constitute grounds for its suspension or revocation by the Department, which action shall be final.
- (3) In case of revocation of any permit, all monies paid for or on account thereof shall, at the option of the Department, be retained by the DCR. Neither such retention by the DCR of the whole nor any part of such monies nor the recovery or collection thereby of such damages, including claims against any bond, or both, shall in any manner relieve such person(s) from civil liability or from criminal liability for violation of any other state or local law, ordinance, rule or order. The permittee, together with its contractors, agents, representatives, employees, licensees, guests and invitees who violated said term(s) or condition(s) shall be jointly and severally liable to the Commonwealth for all damages or loss suffered by the Department in excess of such monies retained.
- (4) Within ten calendar days of revocation or termination, the permittee shall restore the DCR property that was the subject of the permit to a condition satisfactory to the Department.

11.11: Violations and Enforcement

- (1) Any person who by his or her actions violates any provision of 302 CMR 11.00, or any person who fails to comply with any reasonable request of DCR personnel or a law enforcement official, may be evicted from DCR property, denied admittance to a DCR property, subject to fine, banning or a combination of these penalties; provided, however, that any ban shall be effective upon written notification from the Division Director and shall be for a period not to exceed one year, and shall provide for an opportunity for a hearing consistent with 302 CMR 11.13.
- (2) Duly certified law enforcement officers are authorized to issue citations for violations of all DCR regulations, including, without limitation, 302 CMR 11.00: *Parkways, Traffic, and Pedestrian Rules* and 302 CMR 12.00: *Parks and Recreation Rules*. Appeals of such citations, other than parking citations, are to the district court. Any such citations may impose fines in the amounts permitted by any applicable statute or regulation. Parking citations are appealed to the DCR Office of the Parking Clerk, as set forth in 302 CMR 11.13(2): *Parkways, Traffic, and Pedestrian Rules – Appeal of Parking Citation*.
- (3) Violation Towing
 - (a) A vehicle may be towed if the restriction on parking is clearly posted on a DCR sign or other marker that bears “Tow Zone” in the legend.
 - (b) Towing of a vehicle can occur without the need or requirement of posted signage for

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the following violations (violation numbers noted refer to the corresponding section of 302 CMR 11.04):

Violation Code Number and Designation:

- (4) Fire Hydrant
- (5) Within Intersection
- (7) Time Limitation
- (15) Crosswalk, Sidewalk
- (8)(c) Declared Emergency
- (10) Obstructing Snow Plowing, Snow Removal, Street Cleaning or Maintenance Equipment
- (11) Double Parking
- (12) Obstructing Public Transportation
- (14) Obstructing Driveways, DCR Roadways, Service Ways or Gates, Access Areas, Public Transportation Stops, Emergency or Other Restricted Areas
- (15) Obstructing Crosswalks or Sidewalks
- (19) Travel Lane
- (23) More than One Foot from Curb
- (24) Designated Parking Spaces
- (26) Handicap Parking
- (27) Handicap Ramp
- (29) Parkland

(c) A vehicle owner is solely responsible for towing charges.

(d) Ten or more unpaid parking violations on DCR property or DCR roadways shall be grounds for the impoundment of the violating vehicle, until all fines and fees are paid in full.

11.12: Fines and Penalties

(1) Parking Penalties. Violations of any parking provisions found at 302 CMR 11.00 or 302 CMR 12.00: *Parks and Recreation Rules* shall be punishable by penalties, which apply per incident, as noted below (violation numbers noted refer to the corresponding section of 302 CMR 11.04):

Violation Code Number – Designation:

- | | | |
|-----|-------------------------------------|-------|
| (3) | No Stopping | \$100 |
| (4) | Fire Hydrant | \$150 |
| (5) | Within Intersection | \$50 |
| (6) | Restricted Area (Boston, Cambridge) | \$60 |

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(6)	Restricted Area (except Boston, Cambridge)	\$40
(7)	Time Limitation	\$40
(8)	Emergency areas/Emergency Restrictions	\$60
(9)	Bicycle Lane	\$40
(10)	Obstructing Snow Plowing Snow Removal, Street Cleaning/Maintenance	\$60
(11)	Double Parking	\$40
(12)	Obstructing Public Transportation	\$50
(13)	Public Transportation Stop	\$100
(14)	Obstructing Driveways, DCR Roadways, and Other Restricted Areas	\$100
(15)	Crosswalk/Sidewalk	\$100
(16)	Expired/Invalid Registration Plate	\$60
(17)	Expired/Invalid Certificate of Inspection	\$60
(18)	Railroad or Street Railway Crossing	\$100
(19)	Travel Lane	\$60
(20)	Bridge, Viaduct, Underpass, Tunnel, Traffic Island	\$100
(21)	Fire Station, Entrance or Exit	\$80
(22)	Parking in Wrong Direction	\$40
(23)	Parking More than One Foot from Curb	\$60
(24)	Designated Parking Spaces	\$40
(25)	Loading Zone	\$40
(26)	Handicap Parking	\$200
(27)	Handicap Ramp	\$100
(28)	Department Gates – Access Area	\$40
(29)	Parkland	\$40
(30)	Live Parking	\$60
(31)	Taxi Cab – Cabstands	\$60
(32)	Resident Permit Parking	\$60
(33)	Metered Parking	\$40

11.13: Appeals

(1) A party who is aggrieved by a DCR decision may appeal such decision in writing within 30 days. Appeals to DCR decisions will be conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*. Note that the issuance of citations by duly certified law enforcement officers are appealed to the district court.

(2) Appeal of Parking Citation.

(a) In lieu of payment, within 21 days from the date of issuance of a parking citation, a request for a hearing may be made in writing by the registered owner of the ticketed vehicle, to the Office of the Parking Clerk, DCR, at the posted address or website URL indicated on the parking citation.

- (b) The parking clerk or his or her designee shall act as hearing officer and shall hold an informal hearing in accordance with the timeframe provided in 801 CMR 1.02:
Informal/Fair Hearing Rules.

11.14: Rates and Fees

Rates and fees for the use of and access to DCR properties can be found at 801 CMR 4.02:
Fees for Licenses, Permits, and Services to be Charged by State Agencies.

REGULATORY AUTHORITY

302 CMR 11.00: M.G.L. c. 21, §1; c. 92, §§33, 34B, 35, 35A, 37, 38, 41 and 95A; M.G.L. c. 132A, §§2D, 7 and 7A; St. 1981, c. 746, §12A; St. 2003, c. 41; and St. 2011, c. 68, § 29.