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**TO:** Scott Nix, Sudbury Chief of Police  
**FROM:** Jonathan M. Silverstein  
**RE:** Modification of a Speed Limit Enacted Under G.L. c. 90 § 18  
**DATE:** September 28, 2021

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**Question Presented**

You have asked whether a town may act under G.L. c. 90 § 17C to reduce a speed limit established under G.L. c. 90 § 18.

**Short Answer**

No. MassDOT guidance classifies a speed limit established under § 17C as a “statutory speed limit” and a speed limit established under § 18 as a “special speed regulation.” MassDOT’s guidance specifically states that “*Special Speed Regulations will always supersede a statutory speed limit*” (emphasis in original). However, there are other possible ways for a town to modify a speed limit established under § 18.

**Statutory Framework for Establishing and Modifying Speed Limits**

*Statutory Speed Limits: G.L. c. 90 §§ 17 & 17C*

G.L. c. 90 § 17 sets default speed limits for all roads in Massachusetts based on area density. Enacted in 2016, § 17C provides a way for a town to set a default speed limit of 25 mph “on any roadway inside a thickly settled or business district in the city or town on any way that is not a state highway.” A “thickly settled or business district” is defined, at G.L. c. 90, §1, as “the territory contiguous to any way which is built up with structures devoted to business, or the territory contiguous to any way where the dwelling houses are situated at such distances as will average less than two hundred feet between them for a distance of a quarter mile or over.”

The adoption of a “thickly settled or business district” designation can be done for the entire town or on a street by street basis. *MassDOT’s Procedures for Speed Zoning on State Highways and Municipal Roads*, Revised September 2021 (hereinafter *MassDOT Guidance*). This is done by the town first adopting § 17C at a town meeting and the Select Board designating the particular area(s) to be deemed “thickly settled” or a “business district.”

MassDOT classifies speed limits set under G.L. c. 90 §§ 17 and 17C as “statutory speed limits.” See part 2 of *MassDOT Guidance*.

### *Regulatory Speed Limits*

G.L. c. 90 § 18 and 18B concern “regulatory speed limits.” Until §§ 17C and 18B were enacted in 2016, § 18 was the default way for a municipality to modify a speed limit. The process for establishing new regulatory speed limits under § 18 is explained in Parts 4 and 5 of *MassDOT Guidance*. It involves conducting a traffic engineering study developed in conjunction with MassDOT that ultimately must be accepted by MassDOT, the State Traffic Engineer, the Registrar of Motor Vehicles.

The MassDOT guide states explicitly that, with the exception of School Zone Speed Limits, “*Special Speed Regulations will always supersede a statutory speed limit.*”

### **Application to Peakham Road**

Per the materials you provided, the speed limit for Peakham Road was set by Special Speed Regulation No. 7471 in 2008. Per *MassDOT Guidance*, since this is a special speed regulation, it supersedes the statutory speed limit that would otherwise cover that area (assuming this area meets the definition of “thickly settled,” that would be 30 mph under G.L. c. 90 § 17).

This means that even if the Town adopted a thickly settled designation under § 17C for Peakham Road or even the entire town, the speed limits established under Special Speed Regulation No. 7471 would govern.

### **Other Methods of Modifying the Speed Limit on Peakham Road**

There are other potential methods of modifying the speed limit on Peakham Road.

#### *Rescind the 2008 Special Speed Regulation*

A municipality is permitted to remove all or part of an adopted special speed regulation (see part 8 of the *MassDOT Guidance*). If the Town were to do this for Peakham Road, the speed limit would then revert to the statutory speed limit under G.L. c. 90 § 17, 30 mph. If the Town adopted § 17C for Peakham Road, that default would be updated to 25 mph.<sup>1</sup>

#### *Modify the Existing Special Speed Regulation*

MassDOT’s guidance does not specifically address the process for updating a special speed regulation. However, the Town could seek to reinstate the special speed regulation process under § 18 and request a lowered speed limit for Peakham Road. If the traffic conditions have truly

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<sup>1</sup> If the Town is interested in this approach, it would make sense to do this in the reverse order. First, adopt § 17C for Peakham road and then rescind special speed regulation No. 7471. Once rescinded, the speed limit would revert to the statutory default—25 mph under § 17C. This would prevent the speed limit from being 30 mph under § 17 in the interim period between the rescinding of special speed regulation No. 7471 and the adoption of § 17C.

changed (and are reflected in the traffic engineering study), MassDOT could find that a reduced speed limit is warranted.

If the Town would be interested in pursuing this option, I could reach out to MassDOT for further guidance on this process. It should be noted that this option gives the Town the least control over the process, since the ultimate outcome will be dependent on whether MassDOT believes the results of the study warrant a modification to the speed limit.

*Designate the area of Peakham Road as a “Safety Zone” under G.L. c. 90 § 18B.*

G.L. c. 90 § 18B was also established in 2016 and provides an additional way for towns to set a speed limit without the approval of MassDOT. The statutory language states that a town may “[n]otwithstanding section 18 or any other general or special law to the contrary . . . in the interests of public safety and without further authority, establish designated safety zones.” These safety zones have a speed limit of 20 mph. MassDOT classifies this type of speed limit as a “regulatory speed limit,” so it has at least equal authority with the limits established under § 18. The “notwithstanding section 18” language suggests that it would supercede a speed limit established under the § 18 procedure.

*MassDOT Guidance* section 10.c states “[t]o establish a Safety Zone, the following minimum criteria should apply:

- (1) The street should be adjacent to a land use that is likely to attract vulnerable road users,
- (2) The Safety Zone should contain one or more areas that have potential conflicts between motor vehicles and vulnerable road users that warrant a reduction in speeds such as crosswalks, driveways, or side streets,
- (3) The minimum length of the Safety Zone should be at least ¼ of a mile and it should not extend more than 500’ beyond a side street unless an applicable land use continues along the adjacent block.”

*MassDOT Guidance* section 10.c also states that per G.L. c. 85 § 2, all signs for regulatory speed limits must comply with the *Manual on Uniform Traffic Control Devices* (MUTCD). Since MUTCD requires an engineering study to validate the posting of signage, the Town would need to conduct an engineering study prior to adopting a safety zone.

These limitations are slightly at odds with the “without further authority” language of the statute, so there may be an argument that these limitations are not truly valid (or are merely advisory). If the Town is interested in pursuing this option, this is something we could investigate further.

Please let me know if there are further questions of these issues.

JMS/CGM

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