

## **Livable Delaware Activity**

Activity/Policy/Program Name: Context Sensitive Design Policy (D-07)

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Purpose: The purpose of this activity is to plan and design transportation projects so they fit well into the communities they are supposed to serve. Projects designed this way blend into the community and make the place look nicer and work better than it did before the project was done. The people who live in the community are happier.

Enabling Laws: There are no state laws that specifically enable this policy, however, 17 Del. C. § 132 provides the general authority for the Department of Transportation to plan, design, construct and maintain transportation facilities. 29 Del. C. § 84 determines the process whereby projects are funded. Title 17, Section 525 (a) gives the Department of Transportation the authority to trim vegetation within the right-of-way. Title 17, Section 132 (h) stipulates that the Department shall replace trees removed to allow construction. Proposed legislation currently being written by Representative Valihura would update the Delaware Code with respect to tree replacement. Chapter 2, Title 24, Delaware Code relating to Landscape Architects requires that anyone practicing Landscape Architecture in the State of Delaware must have a license from the State. Title 29, Section 84, Delaware Code gives the Department of Transportation authority to revise its organizational structure.

Policies: The Context Sensitive design policy (D-07) became effective on June 30, 2001. Activities implemented under this policy are affected by a number of other policies that govern the design of facilities in specific situations, such as the Tree Preservation Policy, Traffic Calming, and Mobility Friendly Design Standards. The Tree Preservation Policy, in particular, was intended to assure public safety, but may, at times, conflict with community desires. These policies are being reviewed as part of the Livable Delaware Implementation Plan. A Maintenance Policy is needed to establish responsibility for care of amenities included as a result of this policy. This activity is also being addressed as a separate Livable Delaware initiative.

History: As the state has become more populous, it has become increasingly important that transportation facilities and services be provided in a manner that is sensitive to and reflects community context and character, the environment and human dimensions. To better respond to community needs and desires, the Department in September of 2000 endorsed the Context Sensitive Design approach to transportation system improvements. This proactive approach places a greater emphasis on working with the affected community and highlights the flexibility within the existing standards to modify a design to reflect community wishes. Additionally, the Department has had many requests for aesthetic enhancements and other upgrades necessitating the expenditure of additional project moneys.

Current Situation: This policy recently became effective as of June 30, 2001. The Context Sensitive Design Policy sets aside five percent of project construction costs for improvements to the community or environment immediately adjacent to all system

expansion and system management projects. This policy provides a mechanism through which the Department can respond to quality of life issues, such as aesthetics, not normally addressed through a transportation improvement. Specific Livable Delaware goals that this policy supports include encouraging redevelopment of existing communities, protecting farmlands and critical natural resources, and improving mobility, depending on the type of project and the improvements requested by the community.

As more projects are developed using the Context Sensitive Design approach, an issue still to be resolved by the Department is the issue of resource allocation for projects where a budget was established prior to the implementation of this policy. On these projects, in order to allocate the five percent to community requests, that money must currently be deducted from some other project related expense. Although the Context Sensitive Design Policy (D-07) allows up to five percent of construction costs to be dedicated to these types of improvements, additional money has not been allocated to projects already in the pipeline.

Revisions/Actions Needed: This policy was recently adopted and no revisions are needed at this time. However, in order to better implement this new policy, the Department has resolved to pursue the two activities listed below:

- Creation of a position for an in-house Landscape Architect. As the Department works with affected communities and citizens in planning and designing transportation services and projects, the Department has been faced with more and more requests from the public for aesthetic and environmental improvements that Landscape Architects are typically trained to address. Additionally, Context Sensitive Design requires contextual analysis for which a Registered Landscape Architect is trained and licensed.
- Revision of the Tree Preservation Policy (M-02). The current Tree Preservation Policy was issued in 1983 and has never been updated. It was originally intended to address the removal of trees as obstructions within the right-of-way and create a ratio for replacement during new construction. The potential exists for this policy to conflict with community desires being addressed under the Context Sensitive Design policy. For example, community residents may wish to place landscaping or public art within the right-of-way such as on the Charles Mills Boulevard project. Current Traffic Calming practices and Mobility Friendly Design also recognize that there is an appropriate role for landscaping within the right-of-way. The standards and dimensions within the current policy functionally prohibit landscaping within all but the widest of right-of-ways. The revised policy also needs to support the new Scenic and Historic Highways Program currently under development. This policy needs to be restructured to provide guidelines for the use and design of new landscaping. Finally, the Department needs to develop a list of acceptable species for use within the right-of-way.

Resources Needed to Create/Revise: The Department has adopted The Context Sensitive Design Policy. Projects using this option may require up to five percent more construction dollars to complete. Additional monetary resources will be required for construction, as well as to maintain those amenities that become the Department's responsibility.

One full time position is needed to implement the Landscape Architect. In addition, approximately 40 hours of management time will be required to develop the work plan, work

with others in the Department to establish opportunities and process, and allocate necessary resources. Funding for research and policy development activities will be identified on a project- by-project basis through existing sources. Approximately \$500 will be needed to provide equipment, materials and reference books. In addition, approximately \$2,700 will be required annually for professional licensure, continuing education, travel and professional memberships/resources.

Approximately 120 staff hours will be needed to research and develop the new Tree Preservation Policy. Approximately 25 management hours will be required to review and approve the policy. Approximately 3 clerical hours will be needed to copy and distribute the policy during the writing and approval process. Additional time may be needed if a public process is required. As landscaping becomes more common within the right-of-way, maintenance personnel will need to be trained in the proper care techniques. Additional money may be needed for maintenance activities or, if the correct choices are made, money may be saved because less maintenance is required.

Process for Creation/Revision: A position and person have been identified for the Landscape Architect position. To allow for maximum flexibility at this time, a non-merit position has been dedicated to this use. As we determine our need for the discipline of Landscape Architecture, this position may ultimately need to be converted to a merit position. A work plan is currently being developed and resources being allocated. After discussion by the Directors, a number of meetings will be scheduled throughout the Department to discuss opportunities and the process for involving the Landscape Architect in Department activities and projects. A small committee of in-house staff will research the base assumptions and best practices for a revised Tree Preservation Policy and prepare a draft for review. The Departments of Agriculture and Natural Resources may be helpful in establishing best practices and appropriate species selection. The Draft will be reviewed, discussed, and revised by the directors, prior to adoption.

Schedule: Implementation has already begun. We anticipate that the Landscape Architect position will be fully operational by September 1, 2001. The process of researching and revising the Tree Preservation Policy will begin as soon as the Landscape Architect position is fully operational. We anticipate research will begin in September 2001 and, assuming no insurmountable issues, be completed with a new policy in place by December 30, 2001.

Measures to Guide Progress: Number/percentage of new projects developed using the five percent set aside. Conduct a follow-up customer satisfaction survey, another to wrap-up our project to determine whether the affected community is satisfied with the results.

Interactions or Inter-relationships with Other Agencies or Units of Government: This policy requires the affected community (municipality, community group or other public agency) to develop and adopt a maintenance plan as a condition of expenditure of money. At the same time, the policy allows the Department to enter into a formal agreement with the affected community to combine funding, contributions, work, or services, at the request of the community, for coordination purposes or to achieve economies of scale.

Implementation of this policy is subject to Federal, state and local laws, which may, at times, conflict with community desires, however, this policy has not been in effect long enough to identify specific problems. There is some potential opportunity to leverage these funds, at the request of the affected community, for use in partnership with other agencies and governments. For example, funds could be used towards the acquisition of open space or for farmland preservation through DNREC or the Department of Agriculture. Where federal funds are used, the Department is subject to federal requirements related to public notification.

The State Personnel Classification System does not currently recognize Landscape Architecture as a discipline. The closest classification series is the Planner Series, which does not recognize the requirements of professional licensure. As a result, appropriate slotting and compensation are difficult to determine and provide within the merit system.

Local and federal regulations may also affect the placement and selection of species. There is an opportunity for partnerships with the Departments of Agriculture, and Natural Resources and Environmental Control, as well as community-based horticultural groups. Depending on changes to the Delaware Code, the Department may need to acquire land for the purpose of planting trees, potentially at great cost.

The Department is currently working with Representative Valihura and Senator Cloutier to develop the Tree Bill. This bill designates that trees lost as a result of construction activities will be replaced and the process to be used. The DelDOT tree policy when updated will include safety guidelines for tree removal (minimum distances, clear zones, etc.), guidelines for the use of new landscaping within the right-of-way, and guidelines for species selection.