

**TOWN OF CARLISLE
PLANNING BOARD**

**Rules and Regulations for the Administration of
Article XII of the General Bylaws
Scenic Roads**

SECTION 1

GENERAL PROVISIONS

1.1 Authority

These Rules and Regulations are adopted by the Planning Board pursuant to the authority of Chapter 40, Section 15C of the Massachusetts General Laws (the “Scenic Roads Act”) and the Carlisle General Bylaws, Article XII.

1.2 Purpose

The purpose of these Rules and Regulations is to establish uniform procedures of conducting the duties of the Board as authorized by Massachusetts General Law and to ensure that roads designated by Town Meeting as Scenic Roads will not be altered by any person, organization or agency, in any way that requires the cutting or removal of trees, or the tearing down or destruction of stone walls, without adherence to applicable procedures and without the written consent of the Planning Board.

1.3 Applicability

Any person, organization or agency, including but not limited to agencies of the Town of Carlisle and the Commonwealth of Massachusetts, proposing to cut or remove trees and/or to tear down or destroy stone walls, or portions thereof, within the public right-of-way, or on the boundary thereof, of any road designated as a Scenic Road by Town Meeting, in connection with repair, maintenance, reconstruction or paving work, whether or not governed by any other federal, state or local regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these Rules and Regulations.

1.4 Definitions

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. (Massachusetts General Law) Chapter 40, Section 15C, the following terms contained in that statute shall be defined as follows:

1.4.1 Road

“Road” shall mean the right-of-way of any way used and maintained as public way including the vehicular traveled way, plus shoulders, the portion of intersecting driveways within the right-of-way, and necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, and paths. When the boundary of the right-of-way is in issue so that there is a question as to whether or not certain trees or stone walls or portions thereof are within or without the way, the trees or stone walls shall be presumed to be within the way until the contrary is shown.

1.4.2. Tree

“Tree” shall mean a perennial woody plant whose trunk has a diameter of four (4) inches or more as measured four (4) feet above the ground.

1.4.3 Stone Wall

“Stone Wall” shall mean an assembled grouping of stones comprising at least one (1) cubic foot of stone per linear foot and totaling five (5) or more feet in length.

1.4.4 Repair, Maintenance, Reconstruction, or Paving Work

“Repair, maintenance, reconstruction, or paving work” shall mean any work done within a road by any person or agency, public or private. Within this definition is any work on any portion of a road which had not physically commenced at the time the road was designated as a Scenic Road. Construction of new driveways or alteration of existing ones is also included, in so far as it takes place within a road.

1.4.5 Cutting or Removal of Trees

“Cutting or removal of trees” shall mean the removal of one or more trees, trimming of major branches or cutting of roots.

1.4.6 Tearing Down or Destruction of Stone Walls

“Tearing down or destruction of stone walls” shall mean the removal or covering with earth of more than two (2) linear feet of stone wall. Temporary removal and replacement with the same materials at the same location within thirty (30) days shall not be construed to be within this definition.

SECTION 2

DESIGNATION OF SCENIC ROADS

2.1 Procedure for Designation as a Scenic Road

Any person, agency or organization may petition the Planning Board, the Conservation Commission and/or the Historical Commission to request that the Board(s) consider recommending that a road or portion thereof be designated as a Scenic Road.

In determining whether to make a recommendation to Town Meeting that a road be designated as a Scenic Road, the Board(s) shall consider the extent to which such road is bordered by any natural or man-made features of aesthetic, conservation, or historic value, the alteration of which would lessen the value of those features. In particular, the Board(s) shall consider whether such road is bordered by trees and/or stone walls

- 2.1.1 that enhance an open vista such as agricultural land, orchard, farmland, open fields, or pastures;
- 2.1.2 that enhance the rural character of ancient, narrow and winding ways;
- 2.1.3 that protect natural resources, such as water supply, natural habitat, and/or watershed areas;
- 2.1.4 that maintain the historic nature of the road, or the nature of a road that serves an historic district, or is bordered by antique homes or structures; or
- 2.1.5 that are of exceptional quality.

2.2 Notification of Designation as a Scenic Road

Upon the designation of any road as a scenic road by Town Meeting, the Planning Board shall give prompt written notice of that action to all municipal departments, the Massachusetts Highway Department or its successor, all utility companies doing business in the Town of Carlisle, shall publish a notice of the designation in a newspaper of general circulation in the Town; and shall notify in writing all property owners abutting the designated road.

SECTION 3

APPROVAL OF ALTERATIONS

3.1 Request for Alteration

Any person, organization, state or municipal agency seeking the written consent of the Planning Board regarding the cutting or removal of trees and/or the tearing down or destruction of stone walls, or portions thereof, within the right-of-way, or on the boundary thereof, in connection with the repair, maintenance, reconstruction or paving work on a Scenic Road, shall file a request with the Planning Board and the Town Clerk together with the following:

- 3.1.1 The text of the legally required notice identifying the location of the proposed action in terms enabling readers to locate it with reasonable specificity on the ground without need for additional plates or references and describing in reasonable detail the proposed changes to trees and stone walls;
- 3.1.2 A statement of the purpose(s) for the changes proposed;
- 3.1.3 Current photos of the site and drawings of the proposed changes;
- 3.1.4 A list of owners of properties located in whole or in part within 500 feet of the proposed action; and
- 3.1.5 Any further explanatory material useful to adequately inform the Planning Board of the proposed changes.
- 3.1.6 The Planning Board shall have the right to request additional information of the applicant in connection with the proposed alteration.

3.2 Public Hearing

3.2.1 Notice

The applicant for the proposed alteration shall, as required by statute, give notice of a public hearing before the Planning Board by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place and purpose of the hearing with a reasonable description of the action proposed by the applicant. Copies of the notice shall also be sent to the Selectmen, the Conservation Commission, the Historic Commission, the Department of Public Works, the Building Inspector, and the owners of the property within five hundred feet (500') of the proposed action. The applicant shall assume the costs of publication and mailing of this notice.

3.2.2. Timing of Notice

The first publication of the notice shall be as soon as feasible after the Planning Board receives the request from the applicant, and shall in all cases be at least fourteen (14) days before the hearing. The last publication shall occur, as required by statute, at least seven (7) days prior to the hearing.

3.2.3. Timing of Hearing

The Planning Board shall hold a public hearing within forty-five (45) days after the Planning Board meeting at which a properly filed request is received.

3.3 Decision

The Planning Board shall make a decision on the request within twenty-one (21) days of the close of the public hearing. If the Planning Board fails to mail or deliver to the applicant a written copy of its decision within this time period, the requested approval shall be deemed granted.

3.4 Considerations of Decision

The Planning Board's decision on any application for proposed action affecting scenic roads shall be based on consideration of the following:

3.4.1 Preservation of natural resources;

3.4.2 Environmental values;

3.4.3 Historical values;

3.4.4 Scenic and aesthetic characteristics;

3.4.5 Public safety;

3.4.6 Compensatory actions proposed, such as replacement of trees or stone walls;

3.4.7 Existence or absence of reasonable alternatives (including a no-build alternative);

3.4.8 Consistency with articulated Town policies; and

3.4.9 Other sound planning considerations.

SECTION 4

PUBLIC SHADE TREES

4.1 Coordination with the Public Shade Tree Law

Whenever a public hearing must be held under the provisions of these Rules and Regulations and also under M.G.L. Ch. 87, Sec. 3, the Planning Board hearing shall be held in conjunction with that held by the Tree Warden acting under M.G.L. Ch. 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by or abrogating the authority of the Tree Warden under that statute, or vice versa. The Planning Board decision shall contain a condition that no alteration shall be made until all applicable provisions of the Public Shade Tree law, M.G.L. Ch. 87, Sec. 5, have been complied with.

4.2 Emergency Conditions

Nothing in these Rules and Regulations shall be construed as abrogating the authority of Town officials or authorized agencies in an emergency to remove trees or tree limbs that endanger the public or obstruct the public way.