

**TOWN OF WESTWOOD
PLANNING BOARD**

**RULES AND REGULATIONS FOR
SCENIC ROADS**



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TABLE OF CONTENTS

SECTION 1.0	GENERAL PROVISIONS.....	1
1.1	AUTHORITY.....	1
1.2	PURPOSE.....	1
1.3	ADOPTION AND AMENDMENT.....	1
1.4	EFFECTIVE DATE.....	1
SECTION 2.0	DEFINITIONS.....	2
2.1	CUTTING OR REMOVAL OF TREES.....	2
2.2	REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK.....	2
2.3	ROAD.....	2
2.4	TREES.....	2
2.5	TEARING DOWN OR DESTRUCTION OF STONE WALLS.....	2
SECTION 3.0	CRITERIA FOR DESIGNATION AS A SCENIC ROAD.....	2
SECTION 4.0	NOTIFICATION AS DESIGNATION AS SCENIC ROAD.....	3
SECTION 5.0	DESIGNATED SCENIC ROADS.....	3
SECTION 6.0	APPLICATION REQUIREMENTS.....	4
6.1	OFFICIAL APPLICATION FORM.....	4
6.2	CERTIFIED ABUTTERS LIST.....	4
6.3	LOCATION OF WORK.....	4
6.4	STATEMENT OF WORK.....	4
6.5	NUMBER OF COPIES.....	4
6.6	APPLICATION FEES.....	4
6.7	ADDITIONAL INFORMATION.....	5
SECTION 7.0	PROVISION OF SECURITY.....	5
SECTION 8.0	SITE VISIT.....	5
SECTION 9.0	FORMAL REVIEW.....	5
9.1	REFERRAL TO OTHER BOARDS AND DEPARTMENTS.....	5
9.2	PUBLIC HEARINGS.....	5
9.3	RULES OF PROCEDURE FOR PUBLIC HEARINGS.....	6
9.4	PUBLIC SHADE TREE LAW CONSOLIDATED PUBLIC HEARING.....	6
SECTION 10.0	DECISION CONSIDERATIONS.....	7
SECTION 11.0	DISPOSITION OF APPLICATION.....	7
11.1	VOTE.....	7
11.2	DECISION.....	7
11.3	NOTIFICATION OF DECISION.....	8
SECTION 12.0	SEVERABILITY OF PROVISIONS.....	8
SECTION 13.0	WAIVER OF FULL COMPLIANCE.....	8

**PLANNING BOARD
TOWN OF WESTWOOD, MASSACHUSETTS**

**RULES AND REGULATIONS OF THE WESTWOOD PLANNING
BOARD AS PERMIT GRANTING AUTHORITY PURSUANT TO M.G.L.
CHAPTER 40, SECTION 15C SCENIC ROADS**

SECTION 1.0 GENERAL PROVISIONS

1.1 AUTHORITY

These Rules and Regulations are adopted by the Westwood Planning Board, hereinafter called the Board, as the Permit Granting Authority as provided for in Chapter 40, Section 15C (Scenic Roads Law) of the Massachusetts General Laws for the purpose of establishing uniform rules and procedures for the designation of scenic roads and the regulation of certain types of work within the public right-of-way of scenic roads.

1.2 PURPOSE

The purpose of these Rules and Regulations is to ensure that:

- 1.2.1** ways will be recommended for designation as scenic roads based on stated criteria;
- 1.2.2** ways so designated will not be altered without following proper procedures and without adherence to proper considerations; and
- 1.2.3** ways so designated will not be altered by the decision of any person, organization or agency other than the Planning Board.

1.3 ADOPTION AND AMENDMENT

These Rules and Regulations may be adopted and from time to time amended by majority vote of the Board. Prior to the initial adoption of these Rules and Regulations and any subsequent revisions or amendments, the Board shall hold a public hearing. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town of Westwood once in each of two successive weeks, the last publication being not less than seven (7) days before the day of the public hearing.

1.4 EFFECTIVE DATE

These Rules and Regulations become effective when voted on affirmatively by a majority of the Board and filed with the Office of the Town Clerk.

SECTION 2.0 DEFINITIONS

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. Chapter 40, Section 15C, the following terms shall be defined as follows:

2.1 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.

2.2 REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK

“Repair, maintenance, reconstruction or paving work” shall mean any work done within the right-of-way by any person, organization, state or municipal agency. This shall include any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road pursuant to M.G.L. Chapter 40, Section 15C. Construction of new driveways or alteration of existing driveways is also included, in so far as the construction takes place within the right-of-way.

2.3 ROAD

“Road” shall mean a right-of-way of any way used and maintained as a public way including the vehicular traveled way in addition to necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is at issue so that a dispute arises as to its precise location, any trees or stone walls shall be presumed to be within the right-of way until the contrary is shown.

2.4 TREES

“Trees” shall include a tree whose trunk has a diameter of four (4) inches or more as measured one (1) foot above grade.

2.5 TEARING DOWN OR DESTRUCTION OF STONE WALLS

“Tearing down or destruction of stone walls” shall mean the destruction of more than fifteen (15) linear feet of stone wall involving more than one (1) cubic foot of wall material per linear foot above existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

SECTION 3.0 CRITERIA FOR DESIGNATION AS A SCENIC ROAD

The Planning Board, Conservation Commission or Historical Commission shall, in determining which ways should be recommended to Town Meeting as scenic roads, consider the following criteria:

3.1 ways bordered by trees of exceptional quality;

3.2 ways bordered by stone walls;

- 3.3** ways bordered by any other natural or man-made features of aesthetic value;
- 3.4** ways for which any alteration would lessen the aesthetic value of natural or man-made features bordering them; and
- 3.5** ways for which alteration is being planned or is likely to be planned in the future.

SECTION 4.0 NOTIFICATION AS DESIGNATION AS SCENIC ROAD

Upon the designation of any road as a scenic road pursuant to M.G.L. Chapter 40, Section 15C, the Planning Board shall do the following within thirty (30) days of such designation:

- 4.1** notify all municipal departments that may take any action with respect to such road;
- 4.2** notify the Massachusetts Highway Department;
- 4.3** publish in a newspaper of general circulation in the Town of Westwood once in each of two successive weeks that the road, or roads, have been so designated;
- 4.4** indicate such designation on all maps currently in use by municipal departments; and
- 4.5** notify all utility companies or other such parties that may take any action with respect to such road.

SECTION 5.0 DESIGNATED SCENIC ROADS

The following roadways have been designated as scenic roads in the Town of Westwood pursuant to M.G.L. Chapter 40, Section 15C:

- 5.1** Canton Street
- 5.2** Dover Road
- 5.3** Downey Street
- 5.4** East Street
- 5.5** Everett Street
- 5.6** Grove Street
- 5.7** Milk Street
- 5.8** Mill Street
- 5.9** Sandy Valley Road
- 5.10** Summer Street
- 5.11** Woodland Road

SECTION 6.0 APPLICATION REQUIREMENTS

6.1 OFFICIAL APPLICATION FORM

Any person, organization, state or municipal agency seeking a permit from the Planning Board pursuant to M.G.L. Chapter 40, Section 15C for the cutting or removal of trees or the tearing down or destruction of stone walls within a public right-of-way, or portions thereof, shall file an official Scenic Roads Application Form which is attached to these Rules and Regulations.

6.2 CERTIFIED ABUTTERS LIST

The Applicant shall provide a list of Certified Abutters located in whole or in part within one hundred (100) feet **along** the entire scenic road of the proposed action, not to exceed a maximum of one thousand (1,000) feet from the proposed action. This list must be created and certified by the Westwood Board of Assessors.

6.3 LOCATION OF WORK

The Applicant shall provide a locus map of the location of the proposed work within the right-of-way of the scenic road. A Town of Westwood Board of Assessors' Map is sufficient for this purpose.

6.4 STATEMENT OF WORK

The Applicant shall provide a written statement which describes in reasonable detail the proposed work within the right-of-way of the scenic road, including all proposed changes to trees and/or stone walls as defined in Section 2 of these Rules and Regulations.

6.5 NUMBER OF COPIES

At the time of application, the Applicant shall file a minimum of fifteen (15) copies of the official Scenic Roads Application Form and all plans, exhibits, analyses and any other information and/or attachments with the Planning Board. The Applicant shall also file one (1) full copy of the application with the Office of the Town Clerk.

6.6 APPLICATION FEES

The Application Fee for an original Work within a Scenic Road application, repetitive Work within a Scenic Road application or an amendment to a Work within a Scenic Road permit shall be one hundred dollars (\$100.00). The fee shall be non-refundable.

6.7 ADDITIONAL INFORMATION

The Applicant may submit additional information that the Applicant feels is relevant to properly inform the Board about the proposed work within the right-of-way of the scenic road, which may include site plans, legal opinions, deeds, historical data, studies and reports. The Board is empowered to require information in addition to that specifically required by these Rules and Regulations if it finds that this information is necessary to properly act upon the application.

SECTION 7.0 PROVISION OF SECURITY

The Board may require that a performance guarantee be posted with the Town in such form and amount as is required by the Board to secure the satisfactory completion of all or any part of the work authorized by a Work within a Scenic Road permit issued by the Board pursuant to these Rules and Regulations. The form of the performance guarantee shall be generally as required by the Town of Westwood Subdivision Rules and Regulations.

SECTION 8.0 SITE VISIT

In some cases, the Planning Board may request a site visit to the site in which the work is proposed. The date and time for such visit shall be satisfactory to both the Board and Applicant. The Planning Board may request that any work subject to these Rules and Regulations be clearly flagged or otherwise delineated prior to the scheduled site visit.

SECTION 9.0 FORMAL REVIEW

9.1 REFERRAL TO OTHER BOARDS AND DEPARTMENTS

The Planning Board shall transmit copies of the application, together with such information as the Board deems appropriate, to the Tree Warden, Town Engineer, Chief of the Police Department, Conservation Commission and Board of Selectmen for their review and recommendation within twenty-one (21) days of the filing of the application. The Board may also transmit copies of the application to other Boards and Departments as it deems appropriate. Copies of such reviews and recommendations shall be sent to the Planning Board, provided however that failure of any such Board or Department to make recommendations within thirty-five (35) days of receipt by such Board or Department shall be deemed a lack of opposition.

9.2 PUBLIC HEARINGS

A public hearing shall be held within sixty-five (65) days after the date of filing of an Application for Work within a Scenic Road with the Office of the Town Clerk. Notice of the public hearing, which shall include the size, type and location of the tree(s) and/or stone wall to be cut or removed shall be given by publication in a newspaper of general circulation in the Town of Westwood once in each of two successive weeks, the last publication being

not less than seven (7) days before the day of the public hearing, and by posting such notice in a conspicuous place in the Town Hall and at least one or more public places in Town and upon the subject tree(s) and/or stone wall for a period of not less than seven (7) days before the public hearing. Notice shall also be sent by mail, postage prepaid, to the Abutters as defined in Section scribed in Section 6.2 of these Rules and Regulations. In all cases, notice of such public hearing shall be the responsibility of the Board. The required time limits for a public hearing may be extended by written agreement between the Applicant and Board, which shall be filed in the Office of the Town Clerk.

9.3 RULES OF PROCEDURE FOR PUBLIC HEARINGS

An Applicant may appear on his own behalf or may be represented by an authorized agent or attorney. In the absence of an appearance on behalf of an Applicant, without cause, the Board may make a decision on the basis of available information otherwise received.

The Board Chairman shall preside at all public hearings and meetings. The Vice Chairman of the Board shall preside as Acting Chairman and perform the duties of the Chairman in his absence. The Applicant or his duly authorized representative shall present evidence, testimony or other information in support of the application. After the Applicant's presentation, the Board may question the Applicant regarding the evidence, testimony or other information presented. Any persons in attendance will then be given the opportunity to speak or provide testimony. No person shall speak until recognized by the Chairman and has provided his name and address for the record. All written communication shall be submitted into the record if delivered at the public hearing or postmarked or delivered to the Board or Town Planner prior to the close of the public hearing. No further evidence, testimony or information shall be presented or entered into the record after the close of the public hearing.

9.4 PUBLIC SHADE TREE LAW CONSOLIDATED PUBLIC HEARING

9.4.1 M.G.L. Chapter 87, Section 1 defines all trees within a public way or on the boundaries thereof as public shade trees. When a public hearing must be held pursuant to the provisions of M.G.L. Chapter 40, Section 15C and M.G.L. Chapter 87, Section 3 (Public Shade Tree Law) prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and Planning Board. Notice of the public hearing, which shall include the size, type and location of the tree(s) to be cut or removed shall be given by publication in a newspaper of general circulation in the Town of Westwood once in each of two successive weeks, the first publication being not less than seven (7) days before the day of the public hearing, and by posting such notice in a conspicuous place in the Town Hall and at least one or more public places in Town and upon the subject tree(s) for a period of not less than seven (7) days before the public hearing. Notice shall also be sent by mail, postage prepaid, to the Abutters as described in Section 6.2 of these Rules and Regulations. In all cases, notice of such consolidated public hearing shall be given by the Tree Warden. The required time limits for a public hearing

may be extended by written agreement between the Applicant, Tree Warden and Board, which shall be filed in the Office of the Town Clerk.

9.4.2 The consent of the Planning Board to a proposed action pursuant to M.G.L. Chapter 40, Section 15C shall not be regarded as to infer consent by the Tree Warden, and the consent of the Tree Warden pursuant to M.G.L. Chapter 87 is not to be regarded as to infer consent by the Planning Board.

9.4.3 The decision of the Planning Board pursuant to M.G.L. Chapter 40, Section 15C shall contain a condition that no work should be done until the Applicant has complied with all applicable provisions of M.G.L. Chapter 87.

SECTION 10.0 DECISION CONSIDERATIONS

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

10.1 preservation of natural resources;

10.2 environmental values;

10.3 historical values;

10.4 scenic and aesthetic characteristics;

10.5 public safety;

10.6 compensatory actions proposed, such as replacement of trees or stone walls;

10.7 other sound planning considerations.

SECTION 11.0 DISPOSITION OF APPLICATION

11.1 VOTE

The affirmative vote of a minimum of three (3) members of the five (5)-member Board shall be required to issue a permit authorizing work within the right of way of a scenic road. The record shall show the vote of each member or indicate if absent or failing to vote. The decision shall state clearly the specific findings for the action.

11.2 DECISION

The decision of the Board shall be made and filed with the Office of the Town Clerk within thirty (30) days following the close of the public hearing. The required time limits for a

decision may be extended by written agreement between the Applicant and Board, which shall be filed in the Office of the Town Clerk.

11.3 NOTIFICATION OF DECISION

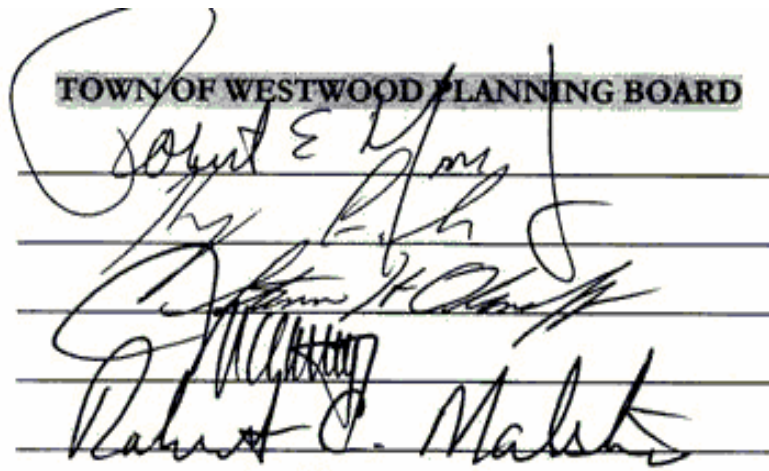
A notice of the decision shall be mailed, postage prepaid, to the Applicant and to persons present at the public hearing requesting such notice.

SECTION 12.0 SEVERABILITY OF PROVISIONS

If any section or provision of these Rules and Regulations is held invalid, it shall not invalidate any other section or provision hereof. If the application of any section or provision of these Rules and Regulations to any person or circumstances is held invalid, it shall not invalidate the application of these Rules and Regulations to other persons and circumstances hereof.

SECTION 13.0 WAIVER OF FULL COMPLIANCE

Full compliance with these Rules and Regulations may be waived by the Board provided such waivers are deemed to serve the public interest.

TOWN OF WESTWOOD PLANNING BOARD

DATE: 7/15/04