

ARTICLE 16. SCENIC ROAD BY-LAW

Purpose: The purpose of this article is to ensure compliance with M.G. L., Chapter 40 §15C and M.G.L., Chapter 87, with respect to protection of trees and stone walls along, and within the right of way of scenic roadways and public roadways within the Town of Sutton.

Section 16.1 - Definitions

16.1.1 "Road" shall mean a right-of-way or any way used and maintained as a public way including the vehicular traveled way plus 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.

16.1.2 "Repair, Maintenance, reconstruction, or Paving Work" shall mean any work within the right-of-way by any person or agency, public or private. This includes any work on any portion of the right-of-way which was not physically finished at the time the road was designated as a scenic road. Construction of new driveways or alterations of existing one is also included, insofar as it takes place within the right-of-way.

16.1.3 "Cutting or Removal of Trees" shall mean the cutting or removal of any trees, or portion thereof.

16.1.4 "Tearing Down or Destruction of Stone Walls" shall mean the destruction of any portion of a stone wall within or along the boundary of a right-of-way.

Section 16.2 - Purpose

These regulations are intended to ensure that;

16.2.1 Ways will be recommended for designation as scenic roads on stated criteria;

16.2.2 Ways so designated will not be altered without following proper procedures and without adherence to proper consideration;

16.2.3 Ways as designated will not be altered by the decision of any person, organization, or agency other than the planning board.

Section 16.3 - Criteria for Designation as a Scenic Road

16.3.1 The planning board, conservation commission, or historical commission shall, in determining which roads or portions of roads should be designated as scenic roads, consider the following criteria:

- a. Ways bordered by trees of exceptional quality;
- b. Ways bordered by stone walls;
- c. Ways bordered by any other natural or man-made features of aesthetic or historical value;

- d. Ways for which alteration is being planned or is likely to be planned in the future.

Section 16.4 - Notification of Designation as Scenic Road

16.4.1 The planning board shall take the following steps within thirty (30) days after a road (s) has been designated a scenic road:

- a. Notify all municipal departments that may take any action with respect to the road (s);
- b. Notify the Mass. Department of Public Works;
- c. Publish in a paper having circulation within the town notice that the road(s) have been so designated;
- d. Indicate such information on all maps currently in use or planned by municipal departments
- e. Notify all utility companies or other such parties who may do work along the border of such roads.

Section 16.5 - Procedures

16.5.1 Filing: Any person, organization, state, or municipal agency seeking the written consent of the planning board regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, shall file a written request with the planning board together with the following:

- a. Text of a legal notice identifying the location of the proposed action in terms enabling the readers to locate the area with reasonable accuracy and a description of the proposed changes to trees, stone walls, natural surroundings, man-made objects or features;
- b. A statement of the purpose(s) for such changes;
- c. A list of owners of properties, as certified by the board of assessors, located in whole or in part within one hundred (100) feet of the proposed action;
- d. A fee, as established by the planning board, to cover the cost of advertising, notification, and administration;
- e. Any further explanatory material useful to adequately inform the planning board.

16.5.2 Notice

The planning board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area. The public hearing may coincide with the hearing(s) for proposed construction of homes or other buildings. Copies of the notice of public hearing shall also be sent to the board of Selectmen, conservation commission, historical commission, highway superintendent, tree warden, and owners of property as appearing on the most recent property listing of the board of assessors within one hundred (100) feet of the proposed action.

16.5.3 Time of Notice

Publication of the required notice shall be at least seven (7) days prior to the date of the public hearing.

16.5.4 Time of Hearing

The planning board shall hold a public hearing within thirty (30) days of the planning board meeting at which a properly filed request is received.

16.5.5 Timing of Decision

The planning board shall make a decision on the request within twenty-one (21) days of the closing of the public hearing.

16.5.6 Public Shade Tree Law

Whenever possible, when a public hearing must be held under the provisions of this section and under M.G.L., ch. 87§3 prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board.

Section 16.6 - Considerations

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

1. Preservation of natural resources;
2. Environmental values;
3. Scenic and aesthetic characteristics;
4. Historical values;
5. Public Safety;
6. Compensatory actions proposed, such as replacement of trees or walls;
7. Other sound planning considerations.

Section 16.7 - General

16.7.1 Highway Superintendent Considerations:

The highway superintendent may take immediate action to remove trees or branches of any size during emergency situations such as fallen debris adjacent to or on roadways. This would also include trees or limbs of a threatening nature to existing or proposed electrical power lines that may jeopardize the safety of the public.

16.7.2 The planning board may adopt more detailed regulations for carrying out the provisions hereunder.

Section 16.8 – Approved Scenic Roads

The following list of roads have been designated as scenic roads pursuant to MGL Chapter 40:

Boston Rd, Century Farm Rd, Lincoln Rd, Eight Lots Rd, Town Farm Rd, Mendon Rd, Rich Rd, Manchaug Rd, Purgatory Rd, Buttonwood Ave, Hartness Rd, Central Turnpike, Douglas Rd, Waters Rd, West Sutton Rd, Burbank Rd, Sibley Rd, Stone School Rd, and Hutchinson Rd.

Adopted: October 17, 1988
Amended: 10/18/04, 5/9/05