

TOWN OF HOPKINTON  
GENERAL BYLAW

**Chapter 160**

**SCENIC ROADS**

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**[HISTORY: Adopted by the Annual Town Meeting of the Town of Hopkinton 5-5-2003, Art. 31. (This article also repealed former Ch. 160, Scenic Roads, adopted by the Annual Town Meeting 4-15-1988, Art 49.) [Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Streets and sidewalks -- See Ch. 174.**

**Trees -- See Ch. 186.**

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**~ 160-1. Definitions.**

In the absence of a contrary meaning established through legislative or judicial action, the following terms contained in MGL c. 40, ~ 15C, or used herein shall be defined as follows:

**CUTTING OR REMOVAL OF TREES --** The removal of one or more trees, trimming of major branches, cutting of roots, but not trimming or cutting of dead trees or dead branches,

**REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK --** Any work done within a scenic road layout by any person or agency, public or private. Included within this definition is any work on a portion of a scenic road layout which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing driveways is also included, insofar as it takes place within the scenic road layout.

**ROAD --** Any right-of-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. Trees or stone walls or portions thereof shall be presumed to be within the bounds of the right-of-way unless it is shown to the contrary on the scenic road layout plan.

**SCENIC ROAD -** A road so designated in accordance with MGL c. 40, ~ 15C, and these regulations.

**STONE WALL --** A man-made grouping of stones forming a straight or curved line.

**TEARING DOWN OR DESTRUCTION OF STONE WALLS --** Any intentional act of removal of stones, moving of stones in any direction, covering over with nonstone materials, or any other intentional act by which stones are dislocated from a stone wall.

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TREES -- Includes any tree the trunk of which has a diameter of three inches or more as measured 4 1/2 feet above the ground (dbh).

**~ 160-2. Purposes.**

These regulations are intended to ensure that:

- A. Ways will be recommended for designation as scenic roads under stated criteria; and
- B. Trees and stone walls along scenic roads will be protected and will not be altered except after notification of interested parties and a public hearing at which the Planning Board shall consider the work project based on the criteria set forth in ~ 160-6 of this chapter, and shall authorize such work to proceed.

**~ 160-3. Recommending designation as a scenic road.**

- A. Public hearing. MGL c. 40, ~ 15C, authorizes designation of a road as a scenic road by the Town upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission. Prior to making any recommendation or request to Town Meeting regarding designation of a particular road as a scenic road, the Planning Board shall conduct a public hearing regarding such proposed designation. Notice of the public hearing shall be given by the Planning Board pursuant to the requirements for notice set forth in ~ 160-5B of this chapter.
- B. Criteria for designation. In determining which roads should be recommended for designation as scenic roads, the Planning Board shall consider whether the road contains or is characterized by any of the following:
  - (1) Bordering trees of exceptional quality in terms of type, age, specimen size or spread, density of stand or related flora.
  - (2) Bordering trees which themselves constitute, or are a significant part of, natural or man-made features of aesthetic value, including by way of illustration, trees having spring flowering or high fall color potential; trees which are part of vistas paralleling roadways or which create a frame of reference for more distant views; and trees whose presence contributes substantially to the rural or woodland character of a roadway, particularly in comparison to more developed or urbanized adjacent areas.
  - (3) Bordering stone walls.
- C. Scenic road layout plan. Prior to the designation of any scenic road after April 30, 1988, a scenic road layout plan shall be prepared by the proponent. The scenic road layout plan shall be drawn to a scale of one inch equals 40 feet or to a scale approved by the Planning Board and shall include:
  - (1) Name of street, street lines, North arrow, date, date of acceptance (in the case of accepted streets), legend.

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- (2) Names of all abutters as they appear on the most recent tax list.
- (3) Locations, names and width of any intersecting streets.
- (4) Location of all trees (as defined in ~ 160-1) and stone walls within the scenic road layout.

**~ 160-4. Notification of designation of scenic road.**

Upon the designation of any road as a scenic road by the Town Meeting, the Planning Board shall promptly undertake the following to give effective notice of such designation:

- A. Notify all municipal departments that may have any interest in the designation of such roads.
- B. Notify the Massachusetts Highway Department.
- C. Cause a notice or informal article to be published in a local newspaper stating that the road, or roads, have been designated as scenic.
- D. Notify all utility companies or other such parties which may undertake work within or on the border of such road.
- E. Notify abutters as they appear on the most recent tax list by regular mail.

**~ 160-5. Procedures for obtaining permits.**

- A. Filing. Any person, organization, public agency or utility company contemplating the cutting or removal of trees, the tearing down or destruction of stone walls, or portions thereof, within the scenic road layout shall first obtain the written authorization of the Planning Board by filing a request for such work with the Planning Board, which shall include the following:
  - (1) Three copies of a plan showing the proposed work and the extent of alterations or removal of trees or stone walls. The plan shall be drawn at a scale of one inch equals 40 feet, or to a scale approved by the Planning Board, and shall show the name of the street or streets, the lines of the scenic road layout, north arrow, names of abutters within 100 feet of the proposed work, and suitable space to record the action, including the signatures of five members of the Planning Board. In instances where relatively minor alterations are proposed, as an alternative to the submission of the above-referenced plans, the Planning Board may accept prints of the approved scenic road layout with the proposed minor alterations clearly indicated thereon.
  - (2) A statement of the purpose, or purposes, for the changes proposed.
  - (3) A list of owners of properties located in whole or in part within 100 feet of the proposed work.
  - (4) Except in the case of Town agencies, a filing fee of \$50.

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- (5) Any further explanatory material as may be required by the Planning Board.
- B. Notice. The Planning Board shall, as required by statute, give notice of a public hearing regarding the proposed work by advertising twice in a newspaper of general circulation in the Town. This notice shall contain a statement as to the date, time, place and purpose of the hearing with a reasonable description of the work proposed by the applicant. Copies of this notice shall also be delivered or mailed to the Board of Selectmen and the Hopkinton Department of Public Works, and the owners of property within 100 feet of the proposed work.
- C. Timing of notice and hearing. The first publication of the notice shall be made as soon as practicable after the Planning Board receives the request from the applicant. The last publication shall occur, as required by statute, at least seven days prior to the hearing. The Planning Board shall hold a public hearing within thirty days of the date upon which a properly filed request is received.
- D. Timing of decision. Within 21 days after the public hearing, the Planning Board shall render a written decision on the request.
- E. Performance guarantee. Before endorsement of its approval on a plan, the Planning Board may require that the proposed work to be done, be secured by a bond sufficient in form and amount in the opinion of the Planning Board to ensure satisfactory performance of the proposed work within the scenic road layout.
- F. Tree Warden. Whenever a public hearing concerning the proposed work is also required to be held by the Tree Warden pursuant to MGL c. 87 (the Public Shade Tree Law), the Planning Board and Tree Warden hearings shall be consolidated and notice thereof shall be given by the Tree Warden in accordance with the provisions of MGL c. 87. The authorization of the Planning Board to such proposed work shall not be regarded as implying the authorization of the Tree Warden or vice versa. The Planning Board decision shall include a condition that no work shall be done until all applicable provisions of the Public Shade Tree Law, MGL c. 87, have been complied with.

**~ 160-6. Criteria for work projects.**

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

- A. The degree to which the proposed work would adversely affect the scenic and aesthetic values upon which the scenic road designation was originally based.
- B. The necessity for the proposed work in terms of public safety, welfare, or convenience.
- C. Compensatory action proposed, such as replacement of trees or walls.
- D. Availability of reasonable alternatives to the proposed work which could reduce or eliminate anticipated damage to trees or stone walls.

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- E. Whether the proposed work would compromise or harm other environmental or historical values.
- F. Consistency of the proposed work with previously adopted Town plans and policies.

**~ 160-7. Enforcement.**

The Planning Board is responsible for the enforcement of this chapter. Whoever violates any provision of this chapter or any conditions of any permit granted pursuant hereto shall be liable for a fine of not more than the maximum permitted by law for each citation for any violation and shall be required to restore any damage. Removal of each individual tree shall be considered a separate violation. Removal of each linear foot of stone wall shall be considered a separate violation.