



# **Town of Reading Massachusetts**

**Community Planning and Development Commission**

**Scenic Road Regulations  
August 1991**

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## SECTION 1 PURPOSE AND APPLICABILITY

### 1.1 Purpose

These regulations are intended to ensure that:

- a Ways will be recommended to Town Meeting for designation as Scenic Roads, consistent with Section 5.8 of the Town of Reading General Bylaw, under stated criteria,
- b Ways so designated will not be altered without following proper procedures and taking into account proper considerations reflective of their contribution to the public good as Scenic Roads, and
- c Ways so designated will not be altered by the decision of any person, organization, or agency other than the Community Planning and Development Commission.

### 1.2 Applicability

While, for purposes of considering and recommending designation of a roadway as a potential Scenic Road, features on both public and private property (as specified in Sections 1.6 and 3.3 hereof) may be taken into consideration, these regulations shall apply to and govern only activities proposed to take place within the confines of a public roadway duly designated as a Scenic Road.

## SECTION 2 DEFINITIONS

In the absence of contrary meaning established through legislative or judicial action, the following terms, contained in MGL Chapter 40 Section 15C and the Town of Reading General Bylaw, 5.8, or used herein, shall be defined as follows:

### 2.1 **Cutting or Removal of Trees**

The removal of one or more trees, trimming of major branches or cutting of major roots of a tree which have an adverse impact on the health or appearance of such tree but not trimming or cutting of dead trees, dead branches, or cutting of minor roots which cutting will not adversely impact the health or appearance of such tree.

### 2.2 **Repair, Maintenance, Reconstruction or Paving Work**

Any work done within the public right-of-way by any person or agency, public or private. Included within this definition is any work on any portion of the right-of-way which was not physically commenced by the date of the first publication of legal notice of public hearing concerning designation of said roadway as a Scenic Road. Construction of new driveways or alteration of existing driveways is also included, insofar as it takes place within the public right-of-way.

### 2.3 **Road or Roadway**

Any public right-of-way used or maintained as a public way including vehicular traveled way plus necessary appurtenances existing within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks. When the boundary of the right-of-way is in issue so that a question arises 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 it is shown to the satisfaction of the Commission reviewing the pertinent matter to the contrary.

### 2.4 **Scenic Road**

A road or portion thereof so designated in accordance with MGL Chapter 40 Section 15C and these regulations

### 2.5 **Trees**

Any tree whose trunk has a diameter of four inches or more as measured one foot above the ground

### 2.6 **Bordering**

All trees, stone walls, and any other natural or man-made features of aesthetic value within direct view from the centerline of the roadway

### 2.7 **CPDC**

The Community Planning and Development Commission of the Town of Reading

## SECTION 3 RECOMMENDING DESIGNATION AS A SCENIC ROAD

### 3.1 Application Procedure

Any group of twenty-five or more registered voters of the Town, or any group constituting fifty percent or more of property owners abutting the roadway proposed, or any duly appointed Town Board or Commission by recorded majority vote, may make application to the CPDC under these regulations, or to the Conservation Commission or to the Historical Commission under such appropriate regulations as they may adopt, for consideration as to whether or not a roadway specified in said application shall be recommended to Town Meeting for designation as a Scenic Road. Such application may be made at any time in writing, specifying the street or roadway, within described bounds, the applicants propose for such consideration, identifying the Commission to which such application is made, containing the requisite signatures, and designating a contact person to act on behalf of the signatories on all matters concerning the processing of the application. The applicants should obtain from the Community Development Department and complete a 'Request for Abutters List' form several weeks in advance of their intended submission of the application. No application fee shall be charged, but the applicants collectively through the designated contact person shall be solely responsible for paying in full the costs of requisite newspaper notices of public hearing and shall be responsible for providing along with the application an Abutters List certified by the Board of Assessors together with a business-size envelope, stamped with requisite postage, addressed to each party listed on the certified Abutters List.

Upon refusal of CPDC to recommend to Town Meeting that a requested roadway be designated as a Scenic Road, a new application will not be accepted by CPDC concerning said roadway for a period of at least two years.

### 3.2 Public Hearing

Prior to making any recommendation or request to Town Meeting regarding designation of a particular road as a Scenic Road, the CPDC shall conduct a Public Hearing regarding such proposed designation. Notice of the Public Hearing shall be given pursuant to the requirements for notice set forth in Section 5.2 of these regulations. Input from the Conservation Commission and the Historical Commission must be requested for the Public Hearing and any such input shall be contained in the narrative presented to Town Meeting relative to any application requesting a roadway to be designated as a Scenic Road.

### 3.3 Criteria

In determining whether a requested road should be recommended as a Scenic Road, the CPDC, the Conservation Commission, and the Historical Commission shall consider whether the road contains or is characterized by any of the following:

- a Bordering trees of exceptional quality, in terms of type, age, specimen size or spread, density of stand, or related flora, 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 vista(s) 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 the roadway, particularly in comparison to more developed or urbanized nearby areas;
- b Bordering stone walls of either historical significance or aesthetic value;
- c Any other bordering natural or man-made feature(s) of either historical significance or aesthetic value which would be adversely affected by any alteration of the roadway;

- d** The general character of the roadway and its environs which in their scenic, aesthetic, or historical composition, comprise an area of unique, distinctive, or special quality reflective of the character and identity of the community or of the historical physical evolution of the community.
- e** Conformity or consistency with the Master Plan of the Town of Reading, or with its Goal and Objectives.

**SECTION 4 NOTIFICATION OF DESIGNATION OF SCENIC ROAD**

Upon the designation by Town Meeting of any road as a Scenic Road, the CPDC shall promptly take or cause to be taken the following steps to give effective notice of such designation:

- a** Notify all municipal departments that may take action with respect to such road and request that they indicate such designation on all maps currently in use by such departments;
- b** Notify the Massachusetts Department of Public Works;
- c** Cause a notice, with or without an accompanying informal article, to be published in a local newspaper stating that the road has been so designated;
- d** Notify all utility companies or other such parties which may undertake work within or on the border of such road; and
- e** Catalog all characteristics which were considered in requesting the road to be scenic and provide sufficient narrative to describe same.

## **SECTION 5 PROCEDURES FOR OBTAINING PERMITS FOR ACTIVATES PROPOSED WITHIN A PUBLIC RIGHT-OF-WAY**

### **5.1 Filing**

Any person, organization, public agency, or utility company proposing the cutting or removal of any tree, the moving, alteration, tearing down, or destruction of any stone wall or portion thereof, or of any other feature within the public right-of-way, which contributes to the character or quality of the Scenic Road, in connection with any repair, maintenance, reconstruction, or paving work shall first obtain the written consent of the CPDC by filing a request for such work with the Commission, including the following information:

- a** The text of a proposed legal notice identifying the location of the proposed activity in terms enabling readers to locate it without need for additional plans or references, and describing in reasonable detail the proposed activity;
- b** A statement of the purpose, or purposes, for the activities proposed;
- c** A certified abutters list together with a set of stamped business-size envelopes addressed to each party so listed, as specified in Section 3.1 hereof;
- d** An application fee of ninety dollars (\$90); the applicant is responsible for paying in full to a local newspaper the cost of publication of requisite public hearing notices in that newspaper as specified in Section 3.2 hereof; and
- e** Any further explanatory material, documents, and plans as may be necessary or appropriate to describe fully all aspects of the proposed activity so that the CPDC may be fully apprised of the proposed activity.

Applicants or prospective applicants are strongly encouraged to review plans at each stage of development with the Director of Community Development and other appropriate Town staff, in order to identify and obtain advice on matters connected with the application and on the applicability of these regulations, in order to expedite the review process before the Commission.

Emergency repairs are specifically exempted from these Regulations but only to the extent necessary to protect life and property. The person, organization, agency, or utility company conducting such emergency repairs shall give notification, including a justification for such emergency and a description of such repair work, to the Director of Community development before undertaking such work if at all possible; if not possible prior to the undertaking of such work, such notification shall occur as soon as practicable after the commencement of such work.

### **5.2 Public Hearing**

Upon receipt of an application in accordance with Section 5.1 hereof, the CPDC shall schedule a Public Hearing to consider said application at its earliest convenient meeting, but in no case more than sixty days following the receipt of a complete application. Notice shall be published in a local newspaper of general circulation at least twice, the first at least fourteen days, and the second at least seven days, prior to the scheduled hearing date. This notice shall contain a statement as to the date, time, place, and purpose of the hearing and shall also contain a reasonable description of the activity proposed by the applicant. Copies of this notice shall also be provided to the Board of Selectmen, the Conservation Commission, and the Historical Commission, and shall be mailed to the owners of property within one-hundred feet of the designated Scenic Road in the envelopes provided by the applicant according to Section 5.1 hereof.

**5.3 Timing of Decision**

Within twenty-one days after the public hearing is closed, the CPDC shall render a written decision on the application and shall file this decision with the Town Clerk.

**5.4 Performance Guarantee**

Before endorsement of its final approval on a plan, the CPDC may require that the proposed work to be done by any party other than a regular operational department of the Town government be secured by a bond sufficient in form and amount in the opinion of the Commission to ensure satisfactory performance of the proposed work within the right-of-way.

**5.5 Tree Warden**

Whenever feasible, the CPDC hearings shall be held in conjunction with those held by the Tree Warden acting under MGL Chapter 87 (Public Shade Tree Law). The consent of the CPDC to a proposed action will not be regarded as inferring consent by the Tree Warden, or vice-versa.

The Commission's decision shall contain a condition that no work shall be done until all applicable provisions of said Public Shade Tree Law have been complied with.

## **SECTION 6 REVIEW CONSIDERATIONS**

The CPDC's decision on any application for proposed activity affecting a designated Scenic Road shall be based on consideration of the following:

- a** The degree to which the proposed activity would adversely affect the character or quality of the scenic road;
- b** The necessity for the proposed activity in terms of public safety, welfare, or convenience, and the consistency of the proposed activity with adopted Town-wide traffic, transportation, or safety plans, programs, or policies;
- c** Compensatory actions proposed, such as replacement of trees, stone walls, or other significant features;
- d** Availability of reasonable alternatives to the proposed activity which could reduce or eliminate anticipated damage to trees, stone walls, or other significant features;
- e** Whether the proposed activity would compromise or harm other environmental or historical values or features;
- f** Whether the proposed activity would adversely affect the preservation of irreplaceable or sensitive natural resources; and
- g** Consistency of the proposed activity or its effects with previously approved Town plans and policies, including the Master Plan, Conservation Plan, Townwide Transportation Plan, and the Capital Improvements Program.

## **SECTION 7                      ENFORCEMENT**

The CPDC is responsible for the enforcement of these regulations. Whoever violates any provision of these regulations shall be liable to a fine of not more than three hundred (\$300) dollars for each citation for any violation and/or shall be liable to be required to replace in kind, extent, and/or quality, for any feature which is within the public right-of-way and contributes to the character or quality of the Scenic Road and which has been altered, destroyed, or removed.

**Regulations adopted by the Reading Planning Board on November 17, 1983**  
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