

Town of Canton Massachusetts  
Adopted under M.G.L.Ch.40,Sec.15C  
AUTHORIZED BY A.T.M. APRIL, 1988  
AMENDED JULY 1992  
"RULES AND REGULATIONS SUBJECT TO SCENIC ROADS"

SECTION 1: PURPOSE

These rules and regulations are intended to insure that:

- A. ways so designated will not be altered without following proper procedures and without adherence to proper considerations; and
- B. ways so designated as scenic will not be altered by the decision of any person, organization, or agency other than the Planning Board of the Town of Canton; and
- C. work will be done in harmony with M.G.L Chapter 87 which states all trees within a public way or on the boundaries thereof shall be a public shade tree.

SECTION 2:

PROCEDURE

2.1 Filing

Any person or organization seeking the consent of the Planning Board under MGL Ch. 40, Sec. 15c regarding road repair, maintenance, reconstruction, paving work, road or driveway cuts that will involve the cutting or removal of trees, or damage to the tree's root system, or the tearing down of stone walls, or portions thereof, shall file a request with the Planning Board, with the following:

- A. Information identifying the location of the proposed action in terms enabling readers with a small hand drawn plan, to reasonably locate it on the ground, and describing the proposed changes to trees and/or stone walls, flagging the same;
- B. An engineering plan for new development and utility companies showing the specific design and engineering details; flagging same
- C. A list of the immediate abutters;
- D. A plan indicating the size, location and species of trees affected.

2.2 Notice

The Planning Board shall, as required by statute, give notice of its public hearing. The notice shall indicate the time and place of the hearing and shall identify the size, type, and location of the trees and /or walls relative to the hearing. Notice shall also be published in a newspaper of general circulation once in each of two successive weeks. The Board shall also send copies of that notice to the Selectmen, Conservation Commission, Historical Commission, Town Engineer, Tree Warden, Department of Public Works, and the owners as of the preceding January 1st of the property

immediately abutting the property for action.

### 2.3 Cost Fees

The applicant will be responsible for the advertisement of notices and the mailing fees.

### 2.4 Timing of Hearing and Decision

The Planning Board shall hold a public hearing within forty-five (45) days of receipt of a properly filed request and shall make a decision within sixty (60) days of that receipt, unless a longer time is agreed to by the applicant. The public hearing will be held at a meeting of the Planning Board.

### 2.5 Tree Warden

When required under the State Statute, the Planning Board hearing shall be held in conjunction with the hearing held by the Tree Warden acting under M.G.L.Ch.87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden, or vice versa.

## SECTION 3: DEFINITIONS

In absence of contrary meaning established through legislative or judicial action pursuant to said M.G.L.Ch.40 Sec.15C these terms contained in that statute and herein shall be defined as follows:

### A. Tree

"Tree" shall include a tree whose trunk has a diameter of three inches or more as measured one foot above the ground.

### B. Road

"Road" shall mean a right-of-way or any other 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. Any affected tree or stone wall shall be presumed to be within the public right-of-way until verified otherwise.

### C. Cutting or Removal of Trees

"Cutting or removal of trees" shall mean the removal of one or more trees, trimming of major branches but not trimming or cutting of dead trees or dead branches, trimming of roots, sealing off, gridling, introduction of poison, or anything else sufficient in the Tree Warden's opinion to cause eventual destruction of a tree is included in the definition of the "cutting or removal of trees". The Tree Warden will make the determination that a tree branch is dead.

### D. Tearing Down or Destruction of Stone Walls

"Tearing down or destruction of stone walls" shall mean the destruction of a stone wall, as well as the removal and replacement of a stone wall at the same location with the same materials.

### E. Repair, maintenance, Reconstruction, or Paving Work" shall mean any work

done within a scenic layout by any person or agency, public or private. Included within this definition is any work on any portion of the scenic 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 layout.

F. Scenic Road

"Scenic Road" shall mean a road so designated in accordance with M.G.L. Chapter 40, Section 15C and these regulations.

G. Scenic Layout

"Scenic Layout" shall mean the land area within and along the sides of a scenic road which is subject to the provisions of these regulations adopted under the authority of M.G.L. Chapter 40, Section 15C.

#### SECTION 4. CONSIDERATIONS

The Planning Board's decision on any application for proposed action affecting scenic roads shall be based on but not limited to the following:

When deemed appropriate by the Planning Board, a site inspection will be held;  
Preservation of natural resources,

\*Environmental and historical

values; \*Scenic and aesthetic

characteristics; \*Public safety,

emergency;

\*Relationship of the road design to the standards of the Planning Board's Subdivision Regulations and of the Massachusetts Department of Public Works

\*Compensatory actions proposed, any tree removed (with the required permission) must be replaced tree for tree on the same lot. It must be properly nurtured for two successive years to assure established status;

\*Functional urgency of the repair, maintenance, reconstruction, or paving;

\*Before the scheduled scenic road hearing the Planning Board shall request the Tree Warden's professional opinion with regard to the tree(s) by his personal appearance at said hearing. If unable to attend, a written opinion is to be submitted before the said scheduled scenic road hearing;

\*Financial and other consequences of design revision to avoid or reduce damage to trees and/or stone walls;

\*Evidence contributed by abutters, town agencies or departments, and other interested parties;

\*If a scenic road hearing has been held and a determination made, the action must take place within a six month time frame or the entire procedure must be repeated;

\*Any affected tree or stone wall will be presumed to be within the public right of way until verified otherwise;

\*Whether road cuts, access driveways, and/or road layouts are in harmony with the scenic way;

\*Other sound planning considerations.

#### SECTION 5. REPORTING

The Planning Board shall, within sixty (60) days of receipt of a properly filed request, submit a written determination of consent or denial to the applicant and a copy to the Board of Selectmen and the Town Clerk. A report of denial shall include an indication for reason of denial.

#### SECTION 6. SECURITY AND MISCELLANEOUS

As part of a decision issued as a result of this regulation, the Planning Board may require that the performance of the conditions imposed hereunder be secured as follows:

A. By a proper bond or deposit of money sufficient in the Planning Board's opinion.

B. By a restriction and/or easement, executed by the owner running with the land whereby the decision conditions shall be performed before any lot may be released other than by mortgage deed.

#### SECTION 7. WAIVER

When the Planning Board receives a request for a waiver from the public hearing as required (M.G.L. Ch.40, Sec.15) the Planning Board or its representative will make a site inspection to verify that no walls or trees will be removed. A report will be made to the Planning Board of the findings before a waiver is considered.

#### SECTION B. ENFORCEMENT

Chapter 40, Sec.21D of M.G.L. will be abided by. The fine will be \$100. per tree for each and every violation. This will be a noncriminal charge as long as the fine is paid. (See the exact law for details) Violations should be made known to the Planning Board during office hours. After hours violations should be made known to the Canton Police Department.