

**Article VI**

**Roads, Highways, Bridges, Rubbish Disposal,  
Water and Sewer**

## **Article VI: Roads, Highways, Bridges, Rubbish Disposal, Water and Sewer**

### **Section 1. Town-Owned Bridges**

The Board of Selectmen shall name all Town-owned bridges.

### **Section 2. Parking Regulations**

Except for the occupants of said dwelling house, no person shall park or cause to be parked any motor vehicle in front of any dwelling house. This prohibition shall be in effect only in those areas where notice of such prohibition or regulation is given by use of portable or permanent signs.

### **Section 3. Unregistered Cars**

- 3.1 No person shall have more than one (1) unregistered car or truck ungaraged on his premises in a residential district at any one time unless authorized by the Board of Selectmen. In no event will an unregistered unsightly car or truck be stored in the front yard.
- 3.2 Each person who violates any provision of this Bylaw, or any lawful order of the Board of Selectmen to remove any vehicle covered by this Bylaw, shall be subject to a fine of not more than one hundred dollars (\$100) for each violation. Each day that any such violation continues shall constitute a separate violation.

### **Section 4. Rubbish and Refuse**

- 4.1 No person shall place, cause to be placed, throw from a dwelling or vehicle, or allow to spill from any truck, upon a public street or sidewalk, or on any other public or private property, without the owners' permission, any litter, whether it be paper, dirt, stones, loam, debris, garbage, sweepings, rubbish, cans, broken glass, paint, filth cleanings, ashes, or other refuse, except in such place and manner as approved by the Commissioners of Public Works for collection of solid waste or recyclables, or for street cleaning, street painting, or similar operations.
- 4.2 Whenever a person desires to locate a dumping place, for the depositing of material on property owned by him, other than that designated by the Board of Health as a public dump, such person shall obtain a permit from the Board of Health to maintain such a dump, and shall be responsible for the proper care and maintenance of such dump or place of deposit upon his property. If such place of deposit is more than one hundred and fifty feet removed from any building, he shall at least once in each month bury all papers, brush and combustible materials, and if such place of deposit is less than one hundred and fifty feet removed from any building, he shall bury such papers, brush and combustible materials at least once in each week.
- 4.3 No person shall, except as hereinafter provided, deposit upon any such dump, or upon streets or ways, or upon any property, public or private, any garbage, decayed meats, fish, fruit or vegetables or any substance which may decompose. If a place is desired for the deposit of such material, the person desiring to make such disposal shall submit to the Board of Health in writing the location where he desires to deposit such materials. Such location shall be remote from streets or dwellings, and the Board of Health shall, upon approval thereof, as suitable for such purpose, issue a permit for such disposition.
- 4.4 Any permit or license granted hereunder may be revoked by the Board of Health.
- 4.5 No person shall throw, dump or cause to be deposited in any stream, brook, lake or pond within the Town any rubbish or other matter, which will obstruct the free flow of water in said stream, brook, lake or pond or its tributaries.
- 4.6 Whoever violates any portion of this bylaw shall forfeit and pay for each offense a fine not exceeding two hundred dollars (\$200).

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- 4.7 Whenever a charge levied by the Board of Selectmen with respect to non compliance to the Department of Public Works trash regulations remains outstanding after forty five (45) days from the billing date, a penalty of 10% or five dollars (\$5) whichever is greater shall be charged. Such penalty shall be added to the bill for solid waste collection/disposal and then, if the bill remains unpaid the entire bill shall be added to the real estate tax bill as a solid waste collection/disposal lien.

### **Section 5. Landfill and Incinerators**

#### **5.1 Purpose**

This Bylaw is adopted for the purpose of protecting the health, safety and welfare of the inhabitants of the Town by establishing regulations for the use of landfills and incinerators operated by the Town. This Bylaw and the regulations hereby authorized to be made shall have for their purpose promoting the proper and efficient use of those facilities to avoid conditions hazardous to the health and safety of the inhabitants, prolonging the life of those facilities and recovering an equitable portion of the costs of providing incinerator facilities.

#### **5.2 Use of Landfill and Incinerators to be Regulated**

No person shall use and no vehicle shall be admitted to any landfill or incinerator operated by the Town, except in compliance with this Bylaw and with rules and regulations made under the authority of this Bylaw and of any law.

#### **5.3 Rules and Regulations**

The Commissioners of Public Works of the Town of Framingham shall make reasonable rules and regulations for the operation of any landfill or incinerator now or hereafter operated or maintained by the Town of Framingham. Such rules and regulations may, without limitation:

- (a) establish hours of operation for each landfill or incinerator;
- (b) prescribe the nature of the material which may be deposited at any landfill or any incinerator and prohibit depositing in either the landfill or incinerator of material which they do not deem suitable for dumping or incineration;
- (c) limit the places within the landfill where refuse of any nature may be deposited;
- (d) prescribe the methods and vehicles to be used in transporting refuse upon Town ways;
- (e) require that receptacles used by refuse collectors conform to reasonable sanitary and safety standards and
- (f) establish the terms and conditions under which other municipalities may use the Town incinerator.

#### **5.4 Charges for Use**

The Commissioners of Public Works shall establish charges for the use of the Town incinerator by other municipalities and by commercial and industrial users; said charges to be reasonably related to the operating and capital costs of the incinerator. In establishing such charges the Commissioners may classify users according to the volume of their use, the nature of the waste or refuse deposited in the incinerator and to criteria reasonably related to the cost of providing service to any of the users.

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### **5.5 Restrictions on Use**

No refuse originating outside of the Town shall be accepted at the landfill, and none shall be accepted at the incinerator except for that collected and deposited by other municipalities under terms and conditions established by the Commissioners of Public Works of the Town of Framingham.

### **5.6 Uniformity of Rates**

Nothing in this Bylaw shall require that charges be the same for all users; however, such charges shall be at rates uniformly applicable to all users of the same class.

### **5.7 Permit**

The Commissioners of Public Works shall require that all users of the landfill and incinerator obtain an annual permit for such use and may make charges for such permits sufficient to recover the cost of issuing such permits and of enforcing the use thereof.

## **Section 6. Water and Sewer Bill Penalty**

**6.1** (Deleted December 14, 1999)

**6.2** The Commissioners of Public Works, in their capacity as the Water Commissioners of the Town, is authorized to establish a system of penalties and fines to be imposed upon any resident who violates one or more provisions of a declared water emergency program; said fines and penalties to be enforced only when the authorized state agency has declared that a water emergency exists and that certain water uses are banned or restricted.

## **Section 7. Obstruction of Public Ways**

**7.1** No person except a duly authorized officer of the Town shall without a permit from the Board of Selectmen dig up any portion of a public way nor obstruct any public way for the purpose of erecting, repairing, altering, or removing any building. Every permit granted, as aforesaid, shall specify the length of time it shall continue in force, and a copy shall be given the Director of Public Works. Every person receiving such permit shall execute a written agreement to indemnify and save harmless the Town against all damages or cost by reason of any claim for damages on account of the existence of such obstruction or excavation, and the Board of Selectmen may impose such conditions, terms and limitations as they shall see fit in respect to erecting barricades, maintaining lights and taking other precautions for the safety of travelers.

**7.2** No person shall coast upon or across any sidewalk or street in Town, except on certain streets which the Board of Selectmen shall designate.

**7.3** No person shall throw any stones, sticks or other missiles on or upon any street of the Town, or play at ball or any games to obstruct the free passage on the street.

**7.4** No person shall tie or fasten any horse or other animal or team of any kind to any lamp post or hydrant or any ornamental shade tree, shrub or vine, or to any fence or other thing, erected for the protection of such tree, shrub or vine, or so near a tree, shrub or vine that such animal can injure it.

**7.5** No person shall drive any horse upon any sidewalk, nor allow any vehicle to stand upon or obstruct any sidewalk or cross walk, except when loading or unloading goods or crossing the walk necessarily.

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## **Section 8. Public Way Access Permits**

### **8.1 Purpose**

It is the purpose of this Bylaw to provide for the review of Public Way Access Permit applications and to establish procedures for the predictable, timely, and uniform review of such applications so as to ensure public safety. These procedures apply to Public Way Access Permit applications for:

- (a) new access to a public way;
- (b) physical modifications to existing access to a public way;
- (c) use of new or existing access to serve the building or expansion of a facility or
- (d) use of a new or existing access that generates a substantial increase in or impact on traffic on a public way.

### **8.2 Definitions**

In this Bylaw, the following terms shall have the meanings prescribed below:

1. "Modification" shall mean any alteration of the physical or traffic operational features of the access.
2. "Substantial" increase in or impact on traffic shall mean that generated by a facility or land use served by an access which meets or exceeds any of the following thresholds:
  - (i) Residential, including hotels, motels, lodging houses and dormitories: any increase to the existing certificate of occupancy of more than 25 persons;
  - (ii) Residential (including subdivisions): 50 vehicular trips per day as defined in the ITE Trip Generation Manual, 5th Ed. In the case of subdivisions of land the estimated trip generation for each lot in the subdivision shall be combined in determining whether or not the thresholds set forth in this paragraph have been met;
  - (iii) Nonresidential: 250 vehicular trips per day as defined in said manual;
  - (iv) Nonresidential: 25 new parking spaces;
  - (v) Nonresidential: 5000 new square feet.
3. "Public way" shall mean all roadways other than state numbered highways as defined in M.G.L., Ch. 81, s. 21;

### **8.3 Submittal of Permit Application**

The Director of Public Works or the Planning Board shall be responsible for the review of Public Way Access Permit application according to the following criteria:

- 8.3.1** Applicants whose proposed action would not otherwise require statutory notice of a public hearing by the Planning Board under the provisions of any applicable Zoning Bylaw, General Bylaws, or Rules and Regulations shall submit a request for a Public Way Access Permit to the Director of Public Works.

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- 8.3.2** Applicants whose proposed action would otherwise require statutory notice of a public hearing by the Planning Board under the provisions of any applicable Zoning Bylaw, General Bylaws or applicable Rules and Regulations shall submit a request for a Public Way Access Permit to the Planning Board.

A permit applicant shall request issuance of a permit on a standard form supplied by the appropriate Board/Department. A permit application shall be deemed complete only after the following items have been submitted:

- a. standard application form;
- b. evidence of compliance with the Massachusetts Environmental Policy Act by the Executive Office of Environmental Affairs of the Commonwealth, if determined to be necessary;
- c. engineering plans acceptable to the Board/Department where required by the Board or Department. The Board/Department, by regulation, may adopt a schedule of reasonable fees to accompany said application.

### **8.4 Procedures of the Director of Public Works**

**8.4.1** Application for a Public Way Access Permit shall be made to the Director of Public Works. Where an application is deemed complete, including certification of notification to immediate abutters, the Director shall review said application with respect to safety or appropriateness of the proposed access and, except when the proposed access would result in generating a substantial increase in or impact on traffic as defined in Subsection B, shall render a decision within 30 working days by filing same with the Town Clerk.

**8.4.2** Where the Director denies said application, he/she shall state specific findings for the denial in the decision.

**8.4.3** Any person who is aggrieved by the decision of the Director of Public Works may file an appeal with the Town Clerk within 21 days of the date of decision. The Board of Selectmen shall hold a public hearing on the appeal according to the procedure indicated in Section 8.8.

**8.4.4** Where an application for a Public Way Access Permit is for an access that would result in generating a substantial increase in or impact on traffic as defined in Subsection 8.2, the Director shall review said application with respect to the safety or appropriateness of the proposed access and make a recommendation to the Board of Selectmen within 30 working days. The Board of Selectmen shall hold a public hearing according to the procedure indicated in Section 8.8.

### **8.5 Procedures of the Planning Board**

**8.5.1** The Planning Board shall advertise and hold a public hearing on an application for a Public Way Access Permit, where deemed complete, concurrent with any public hearing required for the proposed project in accordance with any applicable Zoning Bylaw, General Bylaws, or Rules and Regulations. Review and comment regarding the safety or appropriateness of the proposed access may be made by any department or consultant submitting a report to the Planning Board.

**8.5.2** Following the close of the public hearing, the Planning Board shall make a decision on the Public Way Access Permit application in accordance with the timetable for its decision of the proposed project under any other applicable Zoning Bylaw, General Bylaws, or Rules and Regulations and filing same with the Town Clerk.

**8.5.3** Where the Planning Board denies said application, it shall state specific findings for its denial in its decision.

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### **8.6 Powers of the Director of Public Works, the Planning Board and the Board of Selectmen.**

**8.6.1** The Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with the procedures described herein, may deny the issuance of a Public Way Access Permit due to the failure of the applicant to provide sufficient roadway improvements to facilitate safe and efficient roadway operations, or when the construction and/or use of the access applied for would create a condition that is unsafe or endangers the public safety and welfare.

**8.6.2** The Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with the procedures described herein, may, in the alternative, impose conditions upon a Public Works Access Permit to facilitate safe and efficient traffic operations, to mitigate traffic impacts, and to avoid or minimize environmental damage during the construction period and throughout the term of the Permit. Such conditions may include, but not be limited to:

- (a) necessary limitations on turning movements;
- (b) restrictions on the number of access points to serve the parcel;
- (c) vehicle trip reduction techniques;
- (d) necessary and reasonable efforts to maintain existing levels of service;
- (e) design and construction of necessary public way improvements by the permittee;
- (f) reimbursement by the permittee of costs to town inspection of public way improvement work.

**8.6.3** Variance. Where site or access conditions do not allow the proposed access to meet the permit or design standards normally applicable under this Bylaw, the Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may vary application of the design standards on a case by case basis, upon the finding that:

- (a) for either a private applicant or a government entity, there are no reasonable available alternatives which would allow access in compliance with these standards, in which cases the applicant must commit to provide measures to mitigate impacts to traffic and operational safety which the Director of Public Works or the Planning Board or the Board of Selectmen determines are necessary, or
- (b) as an alternative procedure for a governmental entity only, the variance is necessary to accommodate an overriding municipal, regional, or state public interest, including the avoidance or minimization of environmental impacts.

### **8.7 Access Permit Provisions**

**8.7.1** Construction under the terms of a Public Way Access Permit shall be completed within two years of the date of issue, unless otherwise stated in the Permit. The Director of Public Works or Planning Board or the Board of Selectmen may extend the Permit for an additional year, at the written request of the permittee, filed prior to the expiration of the original construction period.

**8.7.2** If the Director of Public Works or Planning Board or the Board of Selectmen determines that a Public Way Access Permit condition has not been complied with, the Director/Board may suspend or revoke the Permit if, after notice to the permittee of the alleged noncompliance, seventy two (72) hours have elapsed without compliance.

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**8.7.3** The Director of Public Works or Planning Board or the Board of Selectmen may require a performance bond to be posted by the permittee in an amount not to exceed the estimated cost of the work or \$50,000.00, whichever is lesser. The performance bond shall be posted prior to the issuance of the permit.

**8.7.4** The Director of Public Works or Planning Board or the Board of Selectmen may issue written orders, or regulations to carry out or enforce the provisions of this Bylaw.

### **8.8 Review by the Board of Selectmen**

The Board of Selectmen shall hold a public hearing on (1) any appeal by an aggrieved party from a decision of the Director of Public Works within 30 working days of the date the appeal was filed with the Town Clerk, and (2) any recommendation made by the Director of Public Works pertaining to a proposed access that would result in generating a substantial increase in or impact on traffic, within 30 working days of the date the recommendation was made. Notification of the public hearing shall be in accordance with the procedures and timetable set forth in Section V. L. of the Zoning Bylaw. The decision of the Board of Selectmen shall be rendered within 21 working days of the close of the public hearing. A majority vote of the members of the Board of Selectmen shall be required to render a decision. In rendering its decision, the Board of Selectmen shall consider, in accordance with this Bylaw, the safety or appropriateness of the proposed access. The Board of Selectmen may then decide to affirm, modify, or rescind the decision/recommendation of the Director of Public Works by filing same with the Town Clerk.

## **Section 9. Betterments**

The Town is authorized to make public improvements and to assess betterments to those landowners and/or abutters who receive a particular benefit or advantage from such improvement.

Unless otherwise provided herein, the provisions of M.G.L., Ch. .80 shall apply to such betterments.

No board or officer with jurisdiction over such improvement shall vote to assess a betterment unless it first determines that the improvement is necessary for the public convenience or welfare, or it has been presented in a petition for such improvement which petition has been signed by a majority of the landowners and/or abutters to be affected.

The cost of any public improvement voted under this bylaw shall be borne entirely by the area, which receives a special benefit or advantage from the improvement.

Each parcel of land in such area shall bear a proportionate share of the cost of the improvement, shall pay its proportionate share in equal annual portions, not exceeding twenty, and shall pay interest equal to the rate of interest paid by the town on any bond or note issued for the improvement.

## **Section 10. Administration of the Scenic Road Act**

### **10.1 Purpose**

The purpose of this Bylaw is to protect the scenic quality and character of Town roads designated as Scenic Roads by establishing rules and regulations governing local administration of the Scenic Road Act, M.G.L. Ch. 40, s. 15C. The local authority and jurisdiction of the Planning Board, herein, shall be consistent with the Scenic Road Act. The Scenic Road Act governs the cutting or removal of trees, or the tearing down or destruction of stone walls during the repair, maintenance, reconstruction, or paving of roads that have been designated as a scenic road by a city or town. The Town has adopted these regulations with the following objectives:

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- a. To maintain the natural beauty and scenic qualities along scenic roads in the Town of Framingham.
- b. To enhance the rural character of scenic roads of the Town and encourage compatibility with existing roadside features.
- c. To implement more fully the provisions of the Scenic Road Act, M.G.L. Ch. 40, s. 15C.

### **10.2 Statutory Provisions of the Scenic Road Act**

“Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of any city or town, such city or town may designate any road in said city or town, other than a numbered route or state highway, as a scenic road.

After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with prior written consent of the Planning Board, or if there is not planning board, the Selectmen of the town, or the city council of a city, after a public hearing duly advertised twice in a newspaper or general circulation in the area, as to time, date, place and purpose, the last must be held under the provisions of this section and under section three of Chapter eighty-seven 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, or if there is no planning board, the selectmen of a town, or the city council of a city, and notice of such consolidated public hearing shall be given by the Tree Warden or his deputy as provided in said section three of Chapter eighty-seven.”

### **10.3 Procedure to Designate a Road as a Scenic Road**

The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, the Historic District Commission or the citizens or the Town of Framingham by petition (consistent with petition requirements to place an article on the warrant) may propose “scenic road” status for any road in the Town of Framingham, other than a numbered route or state highway.

The Planning Board shall hold a Public Hearing on the proposal or petition, notifying the Selectmen, the Tree Warden, the Superintendent of Streets, the Conservation Commission, the Historical Commission and the Historic District Commission and shall advertise the hearing twice in a newspaper of general circulation; the first advertisement at least fourteen days prior to the date of the public hearing and the last publication to occur at least seven days prior to the date of such hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of the proposed road as a scenic road.

A majority vote of Town Meeting is required for designation of a road as a scenic road. Such designation shall be effective as of the date of Town Meeting action. Any work on any portion of the right-of-way of a scenic road, which was not physically commenced at the time the road was designated by Town Meeting as a scenic road, shall conform to these regulations.

### **10.4 Roads Subject to the Provisions of the Scenic Road Act**

A list of Scenic Roads of the Town of Framingham follows. Streets designated by Town Meeting include the streets in their entirety unless designated otherwise. This list may be subject to revisions or additions from time to time via Town Meeting action. Scenic Roads are regulated by M.G.L. Ch. 40, S. 15C and M.G.L. Ch. 87, S. 3.

10.4.1 Roads designated by Articles 83 of the April 17, 1974 Annual Town Meeting are as follows:

Belknap Road (Pleasant St. to 300 ft. West of Grove St. and from about 850 ft. East of Grove St. to Edgell Rd.)

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Bethany Road (Winthrop Street to Ashland Line)		
Central Street (Edgell Road to Concord Street)		
Dennison Ave.	Edmands Road	Grove Street
Hemenway Rd	Lake Road	Lakeview Road
Mill Street	Millwood Street	Nixon Road
Parker Road	Prindiville Avenue	
Salem End Road (Winter Street to Ashland Line)		
Singletary Ln.	Warren Road	
Winter Street (Salem End Road to Fountain Street)		

10.4.2 Roads designated by Article 15 of the November 12, 1974 Special Town Meeting are as follows:

Auburn Street	Auburn Street Ext.	Barber Road
Edgell Road	Fenwick Street	Kellogg Street
Main Street	Mansfield Street	Maple Street
Merchant Rd.	Parmenter Road	Pond Street
Prospect St.	State Street	Wayside Inn Road
Winch Street		

### 10.5 Definitions

In the absence of contrary meaning established through legislation or judicial action pursuant to MGL Chapter 40, Section 15C, these terms contained in that statute shall be construed as follows:

- 10.5.1 “Cutting or removal of trees” shall mean the removal of one or more trees, trimming of major branches or cutting of roots. “Cutting or removal of trees” shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees or thinning out of overcrowded trees as determined by the Tree Warden. “Cutting or removal of trees” shall include such cutting, trimming or removal as a primary activity, as well as such cutting, trimming or removal done in contemplation of, or following, repair, maintenance, reconstruction or paving work for a road or driveway or sidewalk.
- 10.5.2 “Repair, maintenance, reconstruction, or paving work” shall mean any work done within the right of way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is also included to the extent such work takes place within the right-of-way. Roadside clearing of trees to provide for vehicle clearance or for improvement to line-of-sight shall also be included in this definition.
- 10.5.3 “Road” shall mean the entire right of way including, but not limited to, a vehicular traveled way plus its necessary appurtenances within the right-of-way including bridge structures, drainage systems, retaining walls, traffic control devices, pedestrian facilities and the air space above them, but not intersecting streets or driveways. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or outside of the right-of-way, the trees and stone walls shall be presumed to be within the right or way until the contrary is shown.
- 10.5.4 “Stone walls” shall not be construed to include assemblages of stone involving less than one cubic foot of wall material per linear foot nor totaling less than five feet in length. All stone walls within the entire right-of-way of a scenic road or on the boundaries thereof shall be subject to these regulations. If for whatever reason, it is uncertain whether the stone wall is within such right-of-way of the scenic road, it shall be taken to be within the right-of-way and within the coverage of these rules and regulations until the contrary is shown.
- 10.5.5 “Tearing down or destruction of stone walls” shall include both temporary and permanent removal. Temporary removal of limited portions of stone walls, to be followed by replacement of

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the disturbed portion of the wall within a reasonable period of time, not to exceed 30 days, at the same location with the same materials and according to the original character, shall be subject to informal filing and review procedures, set forth under subsection 10.9.

- 10.5.6 “Trees” shall include any living tree (not bushes) whose trunk has a diameter of three inches or larger at one foot above the ground. All trees within the right-of-way of a scenic road or on the boundaries thereof shall be subject to these regulations. If for whatever reason, it is uncertain whether the tree is within the right-of-way of the scenic road, it shall be taken to be within the coverage of these rules and regulations until the contrary is shown.

### **10.6 Design Standards**

#### 10.6.1 Consistency with Town Standards

Street and driveway construction standards shall be consistent with current standards for streets, driveways and curb cuts, as set forth in the Zoning Bylaw, the Town Bylaw, and the Subdivision Rules and Regulations, all as amended.

#### 10.6.2 Curb Cuts

Each lot fronting on a scenic road shall generally have one driveway curb cut. The traveled width of a driveway for a single home or a common driveway shall comply with the provisions of 527 CMR 1.00. The use of common driveways is strongly encouraged to preserve and to enhance the visual appearance and rural character of scenic roads in the Town of Framingham. The use of a common driveway shall be permitted by right and shall not require a special permit pursuant to Section IV.E.4.a., of the Zoning Bylaw.

#### 10.6.3 Stone Wall Removal Limitations

- a. The maximum amount of stone wall to be removed shall be the width of the pavement of the driveway or new road at the location of the stone wall plus three feet on either side.
- b. Unless otherwise waived, removed stone shall be used to repair other sections of the wall within the scenic road, in accordance with the Planning Board approval.
- c. No wall shall be cut without construction of an appropriate terminus.
- d. In no case shall stones be disposed of or used for purposes other than to repair the remaining stone wall within the scenic road without the prior consent of the Planning Board.
- e. Any construction of a terminus or repair of a stone wall shall match the method of the existing construction.

#### 10.6.4 Tree Removal Limitations

- a. No tree with a trunk exceeding 8 inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.
- b. No cluster of trees located within 6 feet of each other, with individual trunks exceeding 6 inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.

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- c. For each tree with a trunk exceeding 6 inches in diameter, one foot above ground level, that is removed, a tree in a species, size and location, with advice from the Tree Warden and suitable to the Planning Board, shall be planted.

### 10.6.5 Waivers

The Planning Board may waive the design standards, as set forth under this subsection 10.6 herein, if it finds that the waiver is consistent with the considerations and intent of subsection 10.8. The Planning Board shall consider public safety, sight lines, lot configuration, character of the stone wall and existing vegetation in its deliberation for the granting of a waiver.

## **10.7 Procedures**

### 10.7.1 Filing

Any person or organization seeking consent of the Planning Board under MGL, Ch. 40, Section 15C, (the Scenic Road Act) regarding the cutting or removal of trees or the temporary (except as provided for under subsection 10.9 herein) or permanent tearing down or destruction of stone walls, or portions thereof, in connection with the repair, maintenance, reconstruction or paving work (as defined in Section 10.5) on scenic roads, shall submit a written request to the Planning Board together with the following:

- a. A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls (six copies). At a minimum, such plan shall be to scale (preferred scale is 1" = 40') and shall clearly show existing trees and those to be removed, noting the species and diameter (measured one foot above ground). The plan shall indicate the width, height, character and dimensions of any stone wall, as well as the proposed methods for the repair or reconstruction of any portion of the stone wall.
- b. A statement of the purpose(s) for the changes.
- c. A certified list of abutters to include the owners of all property within 500 feet of the proposed work on the scenic road whose property have frontage on the affected scenic road. The list is to be obtained from the Assessors office and should reflect their most current records.
- d. Photographs of the existing site showing the area to be affected by work and the surrounding area for a distance of at least 100 feet to either side on the scenic road in question. All photographs must be signed and dated by the applicant.
- e. Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing, or as required by the Planning Board.
- f. Except in the case of Town agencies, the applicable filing fee shall be paid. The applicant shall also bear the cost of hearing notification.

Notice of submittal shall be filed with the Town Clerk and a copy of the submittal transmitted to the Tree Warden and other Town Departments, after the submittal is accepted by the Planning Board as a complete application and it is signed as such by the Planning Board or its staff.

### 10.7.2 Tree Warden

Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL, Ch. 87. Consent to an action by the Planning Board shall not be construed as

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inferring consent by the Tree Warden or the reverse, nor shall execution of this chapter in any way lessen the Tree Warden's duties as allowed, under MGL, Ch. 87.

### 10.7.3 Notice

- a. The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper or general circulation in the area, the last publication at least 7 days prior to the public hearing. This notice shall contain a statement as to the time, date, place and purpose of the hearing, with a description of the action proposed by the applicant. Copies of this notice shall be sent to the applicant, the Selectmen, the Tree Warden, the Town Engineer, the Department of Public Works, the Conservation Commission, the Historical Commission, the Historic District Commission and to the property owners on the certified list of abutters as set forth in subsection 10.7.1.c. Notice shall also be posted with the Town Clerk, and at the Planning Board Office.
- b. The applicant shall post a Community Notice sign on the property in a conspicuous location at the street frontage at least 7 days prior to the Public Hearing. The sign shall indicate the date, time and location of the Scenic Road Public Hearing before the Planning Board, and the specific nature of the hearing. This sign shall be no less than 2 square feet in size, nor more than 3 square feet in size.
- c. In the event that the Planning Board holds a joint hearing with the Tree Warden, acting under MGL Ch. 87, the advertisement shall be made jointly by the Planning Board and the Tree Warden.

### 10.7.4 Timing

The Planning Board shall hold a public hearing within 45 days from the date on which the Planning Board's notice of submittal is received by the Town Clerk, unless the applicant agrees, in writing, to an extension of time.

### 10.7.5 Decision

- a. In rendering its decision, the Planning Board shall consider the application based on compliance with the Scenic Road Act and the considerations set forth in Section 10.8.
- b. The Planning Board may require sufficient bond to be posted to cover the costs of required work within the road right-of-way and to protect existing vegetation and stone walls. Such bonding shall be specified in the Board's decision.
- c. The decision of the Planning Board shall be filed with the Town Clerk within thirty days of the close of the public hearing, unless the applicant agrees, in writing, to an extension of time; copies of which shall be sent to the applicant, the Selectmen, the Tree Warden, the Building Inspector, the Town Engineer, the Department of Public Works, the Conservation Commission, the Historical Commission, the Historic District Commission and those persons who have requested a copy of the decision.
- d. An applicant shall have two years to undertake implementation of a decision of the Planning Board under these regulations, after which time such decision shall be void.

## **10.8 Considerations**

The Planning Board shall consider the following items in rendering a decision with regard to a scenic road application:

## **Article VI: Roads, Highways, Bridges, Rubbish Disposal, Water and Sewer**

- a. Preservation of historic features;
- b. Protection of natural resources and environmental features;
- c. Preservation of scenic and aesthetic characteristics;
- d. Public safety;
- e. Compatibility with surrounding neighborhood;
- f. Compensatory actions proposed, such as replacement of trees and replacement or repair of walls.

### **10.9 Informal Filing and Review Procedures**

- 10.9.1 Temporary removal of limited portions of a stone wall, to be followed by replacement of the disturbed portion within a reasonable period of time, not to exceed 30 days, at the same location with the same materials and according to the original character, shall be subject to these informal filing and review procedures. Other temporary removal shall not be entitled to these informal filing and review procedures.
- 10.9.2 The applicant shall submit a cover letter, sketch plan of the work to be done, photographs of the area for a distance of 50 feet on either side of the work site and a statement of the purpose for the temporary removal. Such purposes may include temporary removal for the purposes of utility connections or gaining temporary access, among others.
- 10.9.3 Based upon the information submitted, the Planning Board shall determine if the proposed work is of a limited and temporary nature and may vote to approve the work to be completed without further public process. The Planning Board may require sufficient bond to be posted to ensure restoration of the stone walls.
- 10.9.4 Following completion of the work and replacement of the stone wall in accordance with the Planning Board approval, the applicant shall submit a cover letter to the Planning Board confirming completion together with dated photographs of the restored wall.
- 10.9.5 Violations of an approval under this subsection shall be subject to enforcement under subsection 10.10.

### **10.10 Enforcement**

#### **10.10.1 Filing and Restoration Requirement**

Cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a designated scenic road, without prior approval from the Planning Board and in violation of this bylaw will necessitate an immediate filing with the Planning Board, as detailed above, and the area affected shall be subject to restoration of the features, as specified by the Planning Board. This restoration shall consist of replacing/repairing the stone wall as necessary and replacing the trees cut on a square-inch per square-inch basis at locations specified by the Planning Board. A square-inch per square-inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured 1 foot above ground level.

#### **10.10.2 Compliance**

Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including, but not limited to, the enforcement of the bonding and restoration as detailed above.

#### **10.10.3 Penalty**

## **Article VI: Roads, Highways, Bridges, Rubbish Disposal, Water and Sewer**

Cutting or removal of trees or the tearing down or destruction of stone walls within the layout of scenic road in violation of this Section may be subject to a fine of not more than three hundred dollars (\$300), as set forth under the Scenic Road Act, MGL Ch. 40, Sec. 15C. Each day that a violation continues shall constitute a separate offense, until a filing in accordance with subsection 10.10.1 has been made, with continued progression toward a good faith effort for restoration.

### 10.10.4 Enforcement Authority

The Planning Board, the Building Commissioner and the Tree Warden shall have the authority to enforce the provisions of this section, as applicable.