

Scenic Roads

What is a Scenic Roads Bylaw?

A Scenic Roads bylaw is a general bylaw that helps to protect the rural and historic character of local roads from construction related activities. A Scenic Roads bylaw establishes a local review procedure for alteration of stone walls and cutting or removal of trees that are within the public right of way on roads that have been designated as scenic roads. The bylaw lists the roads that are scenic and subject to the review procedure established in the bylaw.

How is it adopted?

A Scenic Roads bylaw is a general bylaw requiring a majority affirmative vote of the town meeting or city council. Scenic Roads bylaws are generally initiated by the local planning board, historical commission or conservation commission, which are the three groups that have the authority to recommend local roads to be designated as scenic. Adoption must be consistent with MGL Chapter 40-15C, the Scenic Roads Act. Numbered routes that cross municipal boundaries may not be designated as scenic roads, even if they are town owned and maintained. Designation of such routes can only be done by an act of the state legislature.

How does it work?

A Scenic Roads bylaw establishes a public hearing review procedure for work on a designated scenic road that involves cutting down or removal of trees or alteration of stone walls within the public right of way. When repair, maintenance, reconstruction, or paving work is proposed that will impact these resources, the planning board holds a public hearing. Following the public hearing, the planning board votes to approve or deny the proposed changes. When public shade trees that are regulated by the Shade Tree Act (M.G.L. Chapter 87) are involved, the planning board holds a public hearing in conjunction with the tree warden (often a parks and recreation commission, DPW or parks and recreation employee). The Scenic Roads Act does not include any guidelines for establishing what constitutes a “scenic” road or standards for review of proposed alterations. However, some communities have adopted criteria for determining scenic qualities as well as standards for review of proposed alterations that include removal of stone walls and trees. A Scenic Roads bylaw does not provide for any review authority when the trees or stonewalls are on private property. However, since the public right of way is often wider than the roadway surface, a Scenic Roads bylaw can help protect adjacent resources.



Examples of Scenic Roads bylaws in Massachusetts

Barnstable

The Barnstable Historical Commission worked with the Conservation Commission to designate sixty-three roads as Scenic Roads. Review of applications to remove trees or stone walls within the right-of-way are coordinated with hearings under the Shade Tree Act with the tree warden, and comments are solicited from the Conservation Commission and Historical Commission. The Scenic Roads ordinance has been most effective in the review of road widening proposals that would have resulted in substantial loss of town street trees and the rural character of roads. Removal of individual trees for access has resulted in replacements with street trees. Route 6A, which is largely a State Highway, was also designated a Scenic Road by special State legislation under the jurisdiction of the Old Kings Highway Historic District Commission.

Dover

To accommodate the construction of a large new house on a scenic road, the property owner wanted to widen the driveway, substantially eliminating a long section of stone wall within the right-of-way. In order to preserve the rural scenic characteristics of the road following the design standards included in the Dover Scenic Roads bylaw, the planning board reduced the width of the driveway opening, required pervious surface in the curb cut, and guided the way in which the stone wall was terminated at the driveway entrance.



Fitchburg

The City of Fitchburg has designated seven roads subject to its Scenic Roads ordinance. The planning board has used the Scenic Roads ordinance and a relatively new (2001) Common Drive ordinance to preserve trees and stone walls along scenic roads. On Ashburnham Hill Road the impact of four dwellings constructed on “Approval Not

Required” lots fronting on the scenic road was minimized by limiting the development to two curb cuts. Requiring common driveways accessing two lots each not only preserved trees and sections of the stone wall but also reduced the necessary crossings of a brook to two, rather than the four that would have been built if each lot had its own driveway.

Hopkinton

In order to strengthen its Scenic Roads bylaw, the town of Hopkinton instituted a non-criminal disposition provision, which allows the town to issue citations when property owners cut down trees that are in the public right of way. The town strengthened this provision by determining that each tree or section of stone wall removed is a separate violation so that the fine can be substantive. In addition to the Scenic Roads bylaw, the town created a tree planting gift account. This is used when developers are required to replicate cut trees, but site conditions do not allow replication to occur at the same location. The tree warden can use funds from this account to plant trees in other locations.

Sherborn

Sherborn's Scenic Roads bylaw refers to the planning board's Subdivision Regulations for driveway curb cuts. Those regulations allow only one curb cut for each house lot. Owners of a corner lot on a new private subdivision road requested a curb cut on the intersecting scenic road, as well as one on the private road. The second curb cut onto the scenic road was not granted due to the ability to access the lot from the newly constructed road that is the legal frontage for the large three-acre house lot.

Wayland

Wayland's Scenic Roads bylaw has design criteria used to evaluate applications to remove trees and stone walls that are within the right of way. One of the standards states that "Only one driveway cut per lot onto any designated scenic road shall be allowed." There are several instances in which this provision has preserved the stone walls lining a scenic road. New dwellings on Claypit Hill Road were

designed with semi-circular driveways. However due to this provision only one curbcut was allowed resulting in preservation of the stone wall and the rural characteristics of the road.

