

TOWN OF IPSWICH, MASSACHUSETTS

PLANNING BOARD

SCENIC ROAD APPLICATION

Prior to submittal of this application, it is recommended that you do the following:

1. Read the attached Scenic Roads by-law, and familiarize yourself with its terms and conditions.
2. Meet with staff from the Department of Planning and Development to determine if your proposed project falls under the Scenic Roads bylaw.

PROCEDURE FOR FILING AN APPLICATION

STEP 1: SUBMIT COMPLETED APPLICATION

The applicant submits a completed application, with accompanying support documents, to the Town Clerk and the Department of Planning and Development. Two copies are required; both will be stamped by the Town Clerk certifying the time and date of filing. The original will be filed with the Town Clerk, the copy will be submitted to Planning.

STEP 2: SCHEDULING OF HEARING AND PREPARATION OF LEGAL NOTICE

The Department of Planning and Development schedules the applicant for a hearing date and prepares the legal notice for publication in the local newspaper.

STEP 3: PAYMENT OF LEGAL NOTICE

The applicant is provided a bill for the legal notice and pays the local newspaper directly.

STEP 4: PUBLIC HEARING BEFORE THE PLANNING BOARD

The Planning Board will hold a public hearing within 30 days of receipt of a properly filed request. Applicants should appear on their own behalf, or be represented by an agent authorized to represent their interests. In the absence without due cause of any appearance on behalf of the applicant, the Board shall decide on the matter by using the information it has otherwise received.

STEP 5: DECISION

The Planning Board gives a copy of its decision to the applicant and files a copy with the Town Clerk. If a consolidated meeting has been held involving the Tree Warden, then the Tree Warden issues the written permit.

TELEPHONE NUMBERS:

Department of Planning and Development: 356-6607  
Tree Warden: 356-6612  
Town Clerk: 356-6600

ADDRESS:

Ipswich Town Hall  
25 Green Street  
Ipswich, MA 01938

**By-Laws**

**SECTION 10. Scenic Roads**

**AUTHORITY AND PURPOSE**

*(1.1) Authority*

This bylaw is adopted under authority of Chapter 40, Section 15C and Chapter 40, Section 21 of the Massachusetts General Laws and Article II and Article LXXXIX, Section 6 Articles of the Constitution of the Commonwealth of Massachusetts.

*(1.2) Purpose*

The purpose of this bylaw is to maintain the rural, natural, historic and scenic character of the Town's roadways. The bylaw, through the Scenic Road Act of 1973 (Chapter 40, Section 15C) the town has the power to protect the scenic qualities of local roads. The bylaw ensures that 1) town ways will be recommended for designation as scenic roads in accordance with the criteria stated in this bylaw; and 2) trees and stone walls within the rights-of-way or layout of all designated scenic town roads will not be altered without the required public hearing, nor without following the other procedures set forth in this bylaw.

**DEFINITIONS**

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. Chapter 40, Section 15C, the following terms contained in that statute shall be defined as follows:

*(2. 1) Cutting or Removal of Trees*

Shall mean the removal of one or more trees, trimming of major branches, or cutting of roots sufficient in the tree wardens written opinion to cause eventual destruction of a tree.

*(2.2) Repair, Maintenance, Reconstruction or Paving Work*

Shall mean any work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing ones is included, insofar as it takes place within the right-of-way. Construction or alteration of water, sewer, electric, telephone, cable TV, or other utilities within the right-of-way is also included

*(2.3) Roads*

Shall mean a right-of-way of any 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. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stonewalls or portions

thereof are within or without the way, the trees and stonewalls shall be presumed to be within the way until the contrary is shown.

#### *(2.4) Tearing Down or Destruction of Stone Walls*

Shall mean the destruction of more than ten (10) linear feet of stone wall involving more than one cubic foot of wall material per linear foot above existing grade. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board approval if the Town Highway Department is notified before the work begins so that it can confirm that the wall is properly replaced. Repair of a stone wall that does not involving tearing down or destroying the wall is not covered by this bylaw.

#### *(2.5) Trees*

Shall include any living tree whose trunk has a diameter of four inches or more as measured four feet above the ground. Nothing in this definition shall be construed to permit a person, other than the Tree Warden or his deputy, to trim, cut down, or remove a public shade tree more than one and one-half inches in diameter one foot from the ground.

### **CRITERIA FOR DESIGNATION AS A SCENIC ROAD**

(3.1) In determining which roads or portions of roads should be recommended to Town Meeting for designation as scenic roads, the following criteria should be considered:

- a. Overall scenic beauty;
- b. Contribution of trees to scenic beauty;
- c. Contribution of stone walls to scenic beauty;
- d. Age and historic significance of roads, trees, and stone walls;
- e. Built features such as historic buildings, historic monuments, historic burial grounds, historic structures, farm buildings and fencing; and
- f. Road features such as historic layout, surface, carriage width, use restrictions, non-historic bridges.

### **PROCEDURE FOR DESIGNATING SCENIC ROADS**

(4.1) The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, or a petition of ten (10) citizens of the Town may propose "scenic road" designation for any Ipswich road other than a state highway as a scenic road. The Planning Board shall then hold a Public Hearing notifying the Selectmen, the Tree Warden, the Highway Department, the Conservation Committee, and the Historical Commission and the public by advertising in a paper of general circulation in the area, the last publication to occur at least seven (7) days prior to the date of the hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of designation of the proposed road as a scenic way. No road shall be designated a scenic road by Town Meeting unless such designation is favorably recommended by the Planning board, Conservation Commission or Historical Commission. A majority vote of Town Meeting is required for designation.

(4.2) Following designation by Town Meeting, the Planning Board shall:

- a. Notify all municipal departments that may take action with respect to such roads;
- b. Notify the Massachusetts Highway Department;
- c. Indicate such designation on all maps currently in use by municipal departments; and
- d. Notify all utility companies or other such parties, which may be working on the boarder of such road.

(4.3) The twenty-three roads already designated as scenic roads by the Scenic Roads Act of 1973 (Chapter 40, Section 15C) shall retain their status as scenic for the purpose of this Scenic Road bylaw. These roads are (including year of designation):

Argilla Road (1974)	Linebrook Road from Leslie Road to
Boxford Road (1974)	Topsfield Line (1976)
Candlewood Road (1974)	Meetinghouse Green (1974)
Chebacco Road (1974)	Mill Road (1988)
East Street, #2 (1989)	Newbury Road (1974)
Fellows Road (1974)	Old England Road (1974)
Goodhue Road (1974)	Old Right Road from Rt. I to Topsfield
Gravelly Brook Road (1989)	Line (1989)
Heartbreak Road (1974)	Pineswamp Road (1974)
Labor in Vain Road (1974)	Rocky Hill Road (1974)
Lakeman's Lane (1991)	Sagamore Road (1974)
Linebrook Road from School to Howe	Topsfield Road from Kennedy Dr. to
Street (1988)	Topsfield Line (1988)
	Waldingfield Road (1974)

## **PROCEDURES**

### *(5.1) Filing*

Any person or organization or agency seeking the consent of the Planning Board under M.G.L. Chapter 40, Section 15C regarding road repair, maintenance, reconstruction, or paving work that may involve the cutting or removal of trees or the tearing down of stone walls, or portions thereof, shall file a request with the Planning Board and submit the following information:

- a. Filling out an application identifying the location of the proposed action so that readers may locate it with reasonable specificity on the ground without the need for additional plats or references, and describing in reasonable detail the proposed changes to trees and stone walls, and a statement of purpose, or purposes for the proposed action.
- b. Submit one copy with necessary background information to the Planning Board and one application form to the Town Clerk. This application is then time-stamped by the office of the Town Clerk.

### *(5.2) Notice*

The Planning Board shall, as required by statute, give notice of its public hearing to discuss the alterations that the applicant wants to have done. Notice will be posted twice in a newspaper of general circulation in the area, with the last publication occurring at least seven (7) days prior to the hearing. The notice will contain the time, date, place and purpose of the hearing. It will also state the purpose of the public hearing.

### *(5.3) Timing of the Hearing*

The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request.

### *(5.4) Decision*

The Planning Board gives written consent to the applicant with copy filed with the Town Clerk. If a consolidated meeting has been held involving the Tree Warden then the Tree Warden issues the written permit. His jurisdiction involves public shade trees.

## **CONSIDERATIONS**

*(6.1)* In acting on applications concerning scenic roads, the Planning Board shall take into consideration the following: preservation of natural resources and historic resources, scenic and aesthetic characteristics, environmental values, public safety, local residential traffic patterns and overall traffic volume and congestion, compensatory actions proposed, such as tree and wall replacement, functional importance and urgency of repair, maintenance, reconstruction, or paving; additional evidence contributed by abutters, Town agencies, and other interested parties; existence or absence of reasonable alternatives; and other planning information.

## **DRIVEWAY DESIGN GUIDELINES**

*(7.1)* At a minimum, driveways shall be consist with Ipswich regulations for residential driveways and curb cuts and shall comply with this bylaw.

*(7.2)* Only one driveway cut per lot onto any scenic road shall be allowed. A new driveway on a scenic road should not exceed twelve feet in width, unless it is a common driveway, in which case it should not exceed sixteen feet in width.

*(7.3)* Stonewall sections to be removed for a driveway shall not exceed the driveway width by more than one foot.

*(7.4)* No tree with a trunk exceeding four inches in diameter measured four feet above the ground should be removed for a driveway unless the curb cut cannot be safely located elsewhere.

*(7.5)* Driveways should be located in a manner that minimizes the required cut and fill, so as to preserve the existing topography to the greatest extent possible.

## **ENFORCEMENT**

*(8.1)* Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within the layout of any scenic road will require an immediate filing as detailed above and the applicant shall be required to restore the features if required by the Planning Board.

*(8.2)* Any violation of this bylaw, M.G.L. Chapter 40, Section 15C, or a Planning Board decision issued under this Bylaw or M.G.L. Chapter 40, Section 15C, shall be punishable by a fine not to exceed three hundred dollars

per violation; any such violation may also be enforced through non-criminal disposition in accordance with this bylaw and general bylaws Chapter 17, Section 4c.

(Amended by vote of Annual Town Meeting on October 15, 2001; approved by Attorney General on February 19, 2002)

TOWN OF IPSWICH, MASSACHUSETTS

PLANNING BOARD SCENIC ROAD APPLICATION

1. Location of Property:
2. Assessor's Map and Parcel No.:
3. Name of Applicant:
4. Address of Applicant:
5. Telephone Number of Applicant:
6. Describe the changes you propose to make to property located along the scenic road (attach additional narrative if necessary):

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7. Does the proposal involve the cutting of trees along a scenic road? (\_\_\_) yes (\_\_\_) no  
If yes, please describe:

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8. Does the proposal involve the tearing down, removal or relocation of a stonewall or walls?(\_\_\_)yes(\_\_\_ )no  
If yes, please describe:

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9. Purpose of the proposed action:

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10. Attach photos, sketch maps and any other documentation as appropriate.

Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_