

RULES

of the

**Rhode Island
Scenic Roadways
Board**

December 2001

Rhode Island Scenic Roadways Board

I. Purpose and Authority

A. Purpose. The Rhode Island Scenic Roadways Board ("the Board") exists for the purpose of carrying out those purposes described in Title 24, Chapter 15 of the General Laws of Rhode Island, as amended from time to time, Chapter 187 of the Public Laws of Rhode Island (1991), and other laws that may be enacted by the General Assembly. The Board interprets its statutory purposes in the broadest sense: scenic vistas in Rhode Island are a very important part of the beauty, natural environment, history and culture of Rhode Island, both to persons living in Rhode Island and to visitors. Identifying, designating, promoting, protecting and preserving scenic roadways has valuable aesthetic, cultural, social and economic benefits to our citizens.

B. Authority. These Rules are adopted pursuant to the provisions of the Rhode Island Administrative Procedures Act (Title 42, Chapter 35 of the General Laws of Rhode Island) and pursuant to the provisions of Title 24, Chapter 15 of the General Laws of Rhode Island.

C. Effect of Rules. When adopted and effective, these Rules will supersede the "Rules of the Rhode Island Scenic Highway Board" filed with the Office of the Rhode Island Secretary of State on March 5, 1992.

II. Organization and Operation

A. The Board

1. Powers and Duties: The powers and duties of the Board include, but are not necessarily limited to:
 - i. developing criteria for scenic roadway designation;
 - ii. developing a process for applying said criteria to applications for inclusion (or removal) as part of the Scenic Highways System;
 - iii. meeting, as necessary, to apply said process in determining the merits of any applications submitted;

- iv. developing procedures for reviewing municipal, state or federally funded or assisted improvement, construction, or alteration of scenic roadways;
- v. developing rules and standards for maintenance, construction, use, and preservation of designated scenic roadways;
- vi. cooperating with property owners and public officials for the enhancement and public enjoyment of scenic roadways.

2. Committees. The Board may create standing and special committees, as may be deemed advisable from time to time, to assist the Board or its staff. Committee members shall be appointed by the Chairperson. Such committees may include persons who are not Members of the Board.

3. Vacancies. Should a vacancy occur on the Board either through resignation or for other reasons, the Secretary shall notify the appointing authority. The vacancy shall thereupon be filled by the appointing authority as provided in Section 24-15-10 of the General Laws of Rhode Island.

4. Attendance at Meetings. Members who miss more than three consecutive regular meetings without having submitted to the Board Secretary a notice of any reason for such absence shall be asked by letter to become more active on the Board. In the event of further absence, the Board may decide by majority vote to send a recommendation to the appointing authority, asking that the appointment be reconsidered.

5. Leave of Absence. Members may request, in writing, a leave of absence for up to six months upon application to the Chairperson.

6. Designees. Each ex-officio Board member may designate a subordinate within his or her department or agency to represent him or her at Board meetings. Designees of members shall have full voting privileges. The name of designees must be submitted in writing to the Secretary by the member to be represented.

B. Meetings

1. Scheduling meetings. The Board shall set the date, time and place of its regular meetings for the coming calendar year at the regularly scheduled December meeting of the year preceding. This schedule shall be set forth as required by the Open Meetings statute. Notice of each meeting shall be sent to each Member by mailing a notice, facsimile, or by telephone given at least seven (7) calendar days before the meeting, except where a longer period may be otherwise prescribed in these Rules. Every two years the Board shall meet at the call of the Director of the Department of Transportation for the election of officers.

2. Special meetings. Upon request of any three (3) Board members, the Chairperson shall schedule a special meeting. The Chairperson may also call a special meeting. Meeting information shall be made known by the Secretary.

3. Quorum. Six (6) members of the Board shall constitute a quorum for the conduct of any business.

4. Public Meetings. All activities of the Board shall be conducted in accordance with the State's Open Meetings statute.

5. Agenda for Meetings. Prior to each meeting, the Chairperson shall prepare an agenda. The agenda for each meeting shall include the following: approval of the minutes of the previous meeting; items for action or discussion; other business. Any member of the Board may place an item on the agenda. Copies of the agenda shall be sent to each Board member, when possible, at least seven (7) days before a meeting. Agenda shall also be sent to any person or organization requesting them.

6. Meeting Records and Voting. Minutes of each Board meeting shall be compiled by the Secretary no later than two weeks after the meeting. The Secretary shall record the names of all members of the Board present or absent at each meeting as part of the minutes of that meeting. The Board shall take action by voice vote, except that on the request of any member action shall be by a roll call vote. The names and votes of those voting on a voice vote shall be recorded by the Secretary and made a part of the minutes. In the case of a tie vote, a motion shall be recorded as

defeated. All voting will be conducted using the Majority Rule. A member voting on the prevailing side of a question may move for reconsideration of that question. Such motion shall be made and acted upon not later than adjournment of the first meeting following the meeting at which the question was initially decided.

C. Officers of the Board.

1. Titles and Terms of Office. The Board shall select the following officers from its membership:

Chairperson

Vice-Chairperson

Secretary

All terms of office shall be for two years, and officers may continue to serve until replaced. Each term of office shall commence following the meeting in which elected (generally June) and shall continue until the next general election of officers unless otherwise deemed necessary and proper. In the event of resignation or replacement of an officer, a special Nomination Committee will be appointed and an Election will be held within two (2) months of the notice of resignation.

2. Duties of Officers of the Board. The Chairperson shall preside at all meetings of the Board. In his or her absence the Vice-Chairperson or Temporary Chairperson shall preside. The officer presiding shall call for each item in the order appearing on the agenda, unless otherwise determined by vote of the Board. The officer presiding shall recognize members desiring to speak and may, in his/her discretion, authorize any other person to address the Board. He/she shall receive motions and seconds, conduct votes on each question, and determine the prevailing side. The officer presiding shall vote on each question. As authorized, the Chairperson shall represent the Board and take official actions on its behalf. The Chairperson shall appoint members of committees. The Chairperson shall direct the work of staff and consultants.

The Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson in the absence or incapacity of the Chairperson. In case of the resignation or death of the Chairperson, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson until such time as a new Chairperson is elected.

The Secretary shall make arrangements for all meetings of the Board, shall notify all members thereof, and shall distribute the agenda for each meeting. He/she shall keep accurate and complete records of attendance and of the proceedings of the Board, recording all votes and performing all duties incident to this office. The Secretary shall also keep written minutes of the Board meetings. In the absence of the Chairperson and the Vice-Chairperson, a regular or special meeting of the Board shall be called to order by the Secretary. The first order of business shall then be the election of a temporary Chairperson by the Board, to preside for the remainder of that meeting. Any member of the Board may serve as Temporary Chairperson.

3. Nomination and Election of Officers.

a. Eligibility. All members of the Board are eligible to hold office (including members of the Nominating Committee).

b. Nominating Committee. The Chairperson will appoint a Nominating Committee in April of the election year. The Nominating Committee shall consist of a minimum of three (3) Board members. It shall be the duty of the Nominating Committee to announce to the full Board a single slate of three (3) candidates one (1) meeting prior to the Election of Officers Meeting. Nominations may be accepted from the floor before balloting during the Election of Officers Meeting.

c. Election of Officers Meeting. The Election of Officers Meeting shall be held at the call of the Director of the Department of Transportation every two (2) years at the regularly scheduled June Board Meeting. Notice of the meeting and a sample ballot will be mailed to each Board Member at least one (1) week prior to the meeting.

d. Voting. Election of officers will be held by written ballot unless a motion is passed to allow for unanimous acceptance of the slate.

D. Access to Files and Records.

1. Requests for Records. It is the policy of the Board that its files and records shall be available for inspection by the public consistent with Rhode Island General Laws Chapter 38-2. All files and records of the Board are available for public inspection unless they are specifically exempted by these rules or unless their disclosure is prohibited by state or federal law or by order of a court of competent jurisdiction. A request for inspection of records shall reasonably describe the records sought in a way that will permit their identification and location by the Board. All requests for information will be submitted in writing to: Rhode Island Scenic Roadways Board, c/o Scenic Roadways Coordinator, 2 Capitol Hill, Providence, RI 02903. If the description of records sought in the request is not sufficient to allow the Board to identify and locate the requested records, the requester will be notified that additional information is needed. The Scenic Roadways Coordinator shall consult with the Chairperson and/or the Board's legal counsel as necessary. The Board will make every reasonable effort to assist in the identification and description of records sought and to assist the requester in formulating his/her request. Inspection of records shall be during regular business hours of the RIDOT.

2. Appeal of Denial of Request. A denial of inspection of records sought under these regulations may be appealed to the Chairperson in writing.

3. Fees for Copying Records. If copies of records are provided, fees for reproduction shall be charged at a reasonable rate in accordance with Rhode Island General Laws 38-2-4(a).

E. Involvement of Municipalities. The Board hereby establishes the policy of working closely with municipalities in its procedures regarding scenic roadways based on the premise that the Scenic Roadway program will be more effective when coordinated with action by the municipality to preserve and protect the scenic features on either side of any scenic roadway. Development or alteration of the land along a scenic roadway may have a significant impact on the qualities which led to the roadway's designation by the Board. Municipalities are encouraged to coordinate plans for development or alteration of land adjacent to a scenic roadway with the Board and to protect land adjacent to a scenic roadway by

limiting inappropriate development and by adopting special overlay zoning or other measures. The Board wishes to work with municipalities to include scenic roadways in the natural and cultural resources element of their comprehensive master plans and to adopt corridor management strategies for scenic roadways.

F. Background Information on Scenic Qualities. In order to carry out its Purpose, the Board may compile and maintain information regarding roads in the state with scenic characteristics. Such information may come from consultants retained by the Board, information submitted by the public and from other sources. The Board shall make this information available to municipalities, RIDOT, other state agencies and other interested parties.

G. Petitions for Rulemaking: Promulgation, Amendment or Repeal

1. Any Person May Petition. Any interested person may petition the Board requesting the promulgation, amendment, or repeal of any rule in the form prescribed by these Rules.

2. Form of Petitions. Petitions to the Board requesting the promulgation, amendment, or repeal of any rules shall generally adhere to the following form for such purposes.

(a) At the top of the page shall appear the wording "Before the Rhode Island Scenic Roadways Board." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether the petitioner seeks the promulgation of a new rule or amendment or repeal of an existing rule. The second paragraph, in case of a new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for an amendment, the new matter shall be boldfaced and the matter proposed to be deleted shall be struck out with a line through the text. Where the petition is for repeal of an

existing rule, such shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reason for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of the petitioner's reason for the action sought.

(c) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his/her attorney. The original and two legible copies of the petition shall be filed with the Board.

3. Action on Petitions. All petitions shall be considered by the Board. At its discretion, the Board may order a hearing for the further consideration and discussion of the requested promulgation, amendment or repeal of any rule. The Board shall notify the petitioning party within thirty (30) days time, as specified by law, of the disposition of the petition. If the Board is unable to dispose of the petition within thirty (30) days, the Chairperson is authorized to deny the petition without prejudice and place the petition on the agenda for the next Board meeting.

4. Rulemaking Changes. All rulemaking changes approved by the Board will be promulgated under the Administrative Procedures Act.

III. Criteria for Designation of Scenic Roadways.

In order to be eligible for designation as a scenic roadway, the road must possess significant scenic resources which are present within the viewshed of the road and which singly or in combination create an unusually attractive, continuous and integrated traveling experience for motorists, bicyclists, or pedestrians. The Board shall consider the following types of scenic resources:

1. Natural. Significant natural characteristics which include surface water (both salt and fresh), vegetation, woods, wetlands and wildlife habitats, topography and surficial geological formations, and cultivated or uncultivated agricultural lands.

2. Historical. Significant historical characteristics associated with

individual buildings, districts or historic landscapes.

3. Cultural. Significant cultural characteristics which may be contemporary built features such as buildings, bridges and designed landscapes.

4. Archaeological. Significant archaeological characteristics which are generally subsurface historical features, but may include exposed sites or standing features.

5. Recreational. Significant recreational opportunities for active or passive recreation, seasonal or special events but must be well known and recurring.

6. Visual. Other significant visual characteristics which are striking and memorable views and/or interesting and attractive spaces in a continuous, integrated experience.

Demonstration of significant resources of a single type is sufficient to support a nomination, except that in the case of archaeological and recreational resources at least one of the other four types of resource must also be present.

IV. Procedures for Designation of Scenic Roadways

A. Who May Apply for Scenic Designation of a Road.

1. The Director of the Rhode Island Department of Transportation may apply to the Board for designation of any state highway as a scenic roadway.

2. The governing body of any municipality may apply to the Board for designation of any road within the borders of the municipality as a scenic roadway. In the case of a municipality which nominates a state highway, the municipality shall notify the Director of the Rhode Island Department of Transportation regarding the nomination. The Director shall have thirty (30) calendar days to comment on the application.

B. Application Form. Application for designation of a roadway shall be made on the form provided by the Board. Using the form, an application shall document:

1. That one or more of the scenic criteria as set forth in Section III are present on the road which is proposed for designation; and
2. That singly or in combination, the scenic elements create an unusually attractive, continuous and integrated travelling experience for motorists, bicyclists, or pedestrians; and
3. What measures the municipality has taken, or will take, to preserve and enhance the scenic character of the roadway which is the subject of the application. Such measures may include, but are not limited to regulation of land use, land and site planning, control of outdoor advertising, control of earth moving and landscaping, the design and appearance of structures and equipment, and public education.
4. Whether the road is or will be actively promoted for use by tourists.
5. In the case of an nomination by a municipality, the application shall include a certified record of the vote of the governing body approving of the filing of the application. The application shall also describe the public hearing or other measures taken by the municipality to inform owners of the properties abutting the roadway and other interested parties about the application. If the nomination includes a state highway, the application shall also include a copy of the notice given to the Director of RI Department of Transportation.
6. In the case of a nomination by the Director of the RI Department of Transportation, the application shall include a copy of the notice given to the governing body of the municipality or municipalities in which the highway is located.
7. A list of owners of properties abutting the proposed scenic roadway which identifies the property owned and includes the owners' mailing addresses and a copy of the written notice used to inform owners of said nomination. The list of owners shall be compiled from the records of the local tax assessor.
8. The dimensions of the road, including width, available shoulder, if any, grade, intersections and traffic signals also shall be

disclosed within the application.

C. Review of Applications. Applications received by the Board shall be referred to the Application Review Committee, which shall be composed of not less than three (3) members of the Board appointed by the Chairperson.

1. The Application Review Committee shall review all nominations for completeness and may request additional information from the applicant if needed.

2. The Application Review Committee shall use the criteria for designation as set forth in Section III to evaluate the eligibility of the roadway.

3. The Application Review Committee shall submit a report of its findings on each nomination to the Board. The report will state specific reasons for its conclusion that the nominated road meets or does not meet the criteria as set forth in Section III.

D. Public Notice and Hearing. A public hearing shall be held prior to the approval or denial of any application for designation of a scenic roadway by the Board.

1. Newspaper publication. Notice of the scheduled public hearing shall be published in a newspaper of general circulation within the geographic area of the roadway which is proposed for designation. Such notice shall be published 15 to 30 days before the hearing date.

2. Mailing of notice. Written notice of the scheduled hearing shall be mailed by first class mail to the Director of RIDOT, the chief elected official and governing body of the municipality, to the owners of the properties fronting the road for which designation is proposed, to appropriate media, and to others who have requested notice. The list of owners shall be compiled from the records of the local tax assessor.

3. Content of notice. Each notice shall state the date, time, and place of the hearing and contain a brief description of the area included in the proposed scenic roadway designation. The notice shall announce the availability of the complete application and

where it may be obtained or reviewed. A copy of the application with attachments shall be made available for review at the office of the Town or City Clerk in the municipality where the proposed roadway is located. The notice shall also state where written statements may be sent in advance of the hearing date.

4. Opportunity for public comment. At the hearing, members of the public will be given an opportunity to present oral or written comments on the proposed scenic roadway designation.

E. Action by the Board on the Application. An application shall be approved or disapproved by a majority of the Board members at a meeting held following the public hearing.

1. The Board shall consider the report of the Application Review Committee.

2. The Board shall determine whether the nominated roadway meets the criteria as set forth in Section III for designation.

3. The Board shall consider the measures taken, or to be taken, by the municipality to preserve or enhance the scenic character of the roadway under consideration and whether a municipality has developed or is developing a formal corridor management plan.

4. The Board shall consider written and oral comments on the application from officials, owners of property fronting the proposed scenic roadway, and the public.

5. The Board shall vote to approve or disapprove the application, and the minutes shall state the reasons for the Board's action. Provided, however, that no application in the Town of Westerly for designation of a highway or road, or portion thereof, as a scenic roadway shall be considered unless the owners of a majority of the lineal lot frontage abutting the highway or road file a written statement or statements agreeing to the designation with the director or governing municipal body within the sixty (60) days immediately following the application.

6. Written notice of the Board's action and a statement of the reasons for the action shall be sent to the chief elected official and governing body of the municipality in which the roadway is located

and to the Director of the RI Department of Administration (Statewide Planning Program) and to the Director of the RI Department of Transportation.

F. Records. The Board shall maintain a list of Rhode Island's designated scenic roadways together with a copy of the application documentation accepted by the Board.

G. Review of Previous Scenic Designation. The Board may review previous scenic designations to determine if changes have occurred which affect the roadway's scenic resources and to consider whether the roadway continues to satisfy the criteria as set forth in Section III for designation. The Board may request the assistance of the original applicant or other interested parties in such review. Based on its review, the Board may choose to retain the designation, to request withdrawal of the designation, to request remedial action to retain the designation, or to request the expansion or reduction of the limits of the designation.

H. Withdrawal of Scenic Designation. The Director of the RI Department of Transportation may apply to the Board for the withdrawal of the scenic roadway designation of a state highway, or the governing body of a municipality may apply to the Board for the withdrawal of the scenic roadway designation of a road located within the municipality, or the Board itself may propose the withdrawal of the scenic designation of a road. The application for withdrawal of the scenic designation shall be made in writing and shall contain documentation of destruction or adverse changes to the designated road's scenic resources and/or evidence that the designation is no longer desired. Prior to acting on the application, the Board shall provide notice and hold a public hearing in the same manner as for designation. An application for withdrawal of scenic designation may be approved or denied by a majority of the Board members at a meeting following the public hearing. The Board may reduce the area of a previous scenic designation as an alternative to withdrawal of the entire designation.

Provided, however, that no application for removal of a highway or road, or portion thereof, from the scenic highways system, shall be approved unless the owners of a majority of the lineal lot frontage abutting the highway or road agree to the removal by filing an application with the director or governing municipal body, within the sixty (60) days immediately preceding the application, a written statement or statements agreeing to the removal.

V. Procedures for Application for Permission to Perform Construction, Repair, or Alteration of Scenic Roadways

A. General

1. **Scope of Review.** These procedures are adopted to preserve designated scenic roadways during construction, repair, or alteration. No construction, repair or alteration shall be performed or permitted to a scenic roadway except in conformance with this procedure. Included within the scope of the Board's review are grade changes, alteration of vegetation, curb cuts and other accesses or entrances leading into the right-of-way of the scenic roadway as well as roadway construction or repair. Projects for construction, repair, or alteration to scenic roadways shall be reviewed by the Board to evaluate whether the proposed project will have an adverse effect upon or alter the scenic resources or characteristics that qualify the roadway to be designated as scenic. The Board will consider all relevant information including the contents of the application itself and the views (if any) of RIDOT, a municipality, or the public regarding the project's impact to the scenic qualities of the roadway.

2. **Timing.** Any applicant is required to complete these procedures prior to beginning construction, repair, or alteration work to a scenic roadway. Any applicant should ensure that the review process is initiated early in the planning stages of the undertaking, when the widest feasible range of alternatives is open for consideration. The applicant should establish a schedule for completing the advisory process that is consistent with the planning and approval schedule for the undertaking.

B. Identifying Designated Scenic Roadways

1. **Consultation.** Early in the planning or permitting of a project which may alter a scenic roadway, RIDOT and/or the municipality shall report to the Board any proposed construction, repair, alteration or permitting proposed for a scenic roadway.

2. **Designation of Roadway Under Design.** If the Board designates a scenic roadway which is already the subject of

RIDOT or a municipality's plans for construction, repair or alteration, RIDOT or the municipality shall begin to comply with these procedures from the date of designation. In its review, the Board shall take into account the practicality and feasibility of making changes in the plans or construction done prior to designation.

3. Public Comment. With respect to construction, alteration or repair of any scenic roadway, RIDOT or the municipality undertaking the project will include information about the roadway's scenic designation in information provided to the public about the project, invite public comment on the project's impact to the scenic qualities of the roadway, and provide the Board with copies of written comments received and a written summary of oral comments, including the names of those commenting.

C. Determination of Effect upon Scenic Roadways

1. Permits. RIDOT or any municipality issuing permits to any persons or entities, including but not limited to utility companies, for a construction, repair or alteration project on a scenic roadway, or any rights of way or easements or vegetation connected to that scenic roadway, shall inform the Board of such application. All such permit requests shall be governed by this Section V.

2. Minor Alterations. In the case of the minor, routine maintenance of a designated scenic roadway, the Chairperson may, at his/her discretion, refer the review of the proposed work to the technical staff for a recommendation. The Chairperson may then choose to approve the work based on the technical staff recommendation and notice will be given to all members of the Board. If the Chairperson finds that the work will have an adverse effect or if the Chairperson finds that the work is not minor, then the Chairperson shall refer the matter to the full Board for review. Maintenance shall be defined as sweeping, crack sealing, striping, replacing signs, resurfacing involving insignificant topographical changes, repair of failed drainage and minor utility repair.

3. Major Alterations. Any applicant with plans to perform construction, repair or alteration to a scenic roadway as defined in Section V.A. shall submit to the Board at each recognized stage of planning and design (as applicable, Conceptual Design, 10%, 30%,

75%, 90% and PS&E) all available information concerning the planned project including all information as to the manner in which the project will affect the scenic roadway and an application in a form prescribed by the Board. It is the intent of the Board to encourage close coordination on projects which have the potential for major impacts to the scenic roadway during the entire planning and design process. Cooperation and early identification of problem areas can help to resolve potential conflicts in the early stages of the process. In order to obtain final approval to perform construction, repair or alteration on a scenic roadway, said application shall include the following information as required by the Board:

- a. Identification of the applicant and any proposed contractors for the proposed construction, alteration or repair;
- b. Detailed, 20-scale plans and specifications of the proposed changes to the scenic roadway including drawings and, where appropriate, photographs;
- c. The dates of the proposed construction, repair or alteration;
- d. A statement as to the measures taken in the proposed project to preserve the scenic character of the roadway;
- e. A map demonstrating the locations of the proposed project.

4. Board Review.

- a. The Board shall promptly review the application to determine if the proposed project will have an adverse effect on the scenic roadway. The Board shall respond to the applicant within sixty (60) days of receiving the application and will advise the applicant if more information is needed or if more time is required for the Board's review.
- b. A project is considered to have an adverse effect when it damages or destroys scenic resources or characteristics which contribute to the roadway's designation as scenic.

Adverse effects include, but are not limited to:

- (1) Physical destruction, damage or alteration of all or part of the scenic roadway or its scenic resources as defined in Section III of these Rules.
- (2) Alteration of the character of the roadway's setting;
- (3) Introduction of visual, audible, or atmospheric elements that are out of character with the roadway or alter its setting;
- (4) Neglect of a scenic roadway resulting in deterioration or destruction of the roadway or its scenic resources; and
- (5) Transfer, lease, or sale of publicly-owned property without adequate provision for its continued preservation.

5. Determination of No Adverse Effect. If the Board finds the effect on the scenic roadway not to be adverse, it shall document the finding and notify the applicant and interested persons who have made their concerns known, and the project may proceed. In reaching a finding of no adverse effect, the Board may stipulate changes to the project or conditions which will avoid potential adverse effects.

6. Determination of Adverse Effect. If the Board finds that the project will have an adverse effect on the features or characteristics of the scenic roadway, it shall:

- a. Notify the applicant, the Director of RIDOT and/or the chief elected official and the governing body of the municipality in which the roadway is located and other interested persons who have requested in writing that they be notified of any such determination.
- b. Consult with the applicant, RIDOT, and/or the municipality in which the roadway is located regarding alternatives which would avoid, minimize, or mitigate the

adverse effects of the project and preserve the scenic resources of the roadway. Such alternatives include but are not limited to consideration of a waiver of RIDOT or Federal standards, reduction of the speed limit and design speed, landscape treatments, tree and shrub replacements, stone wall replacements, and use of traffic calming measures, where applicable.

c. The Board may invite other interested parties to participate in the consultation.

7. Agreement on Avoidance or Satisfactory Mitigation of Adverse Effect. After a thorough review of the alternatives, the Board and the applicant, RIDOT and/or the municipality may agree that there is a prudent and feasible alternative that avoids, minimizes or mitigates the adverse effect of the project. If an agreement is approved by the Board, the Chairperson and the applicant, the Director of RIDOT and/or the particular municipality shall sign a Memorandum of Agreement describing such alternative with the measures to eliminate, minimize, or mitigate the adverse effect, and the project may proceed. The applicant may withdraw a project which is objectionable to the Board for modification and resubmission.

8. Acceptance of Adverse Effect. After a thorough review of the alternatives, the Board with the advice of the Director of RIDOT and/or the particular municipality may determine that in the interest of public safety there are no prudent or feasible alternatives to avoid, minimize, or mitigate the adverse effect. Upon such decision, the Board may either prepare a written report of Acceptance of the Adverse Effect, permitting the project to proceed, or the Board may accept an application from the Director of RIDOT or the municipality for withdrawal or reduction of the limits of the scenic designation as outlined in Section IV.H.

9. Failure to Agree. After a thorough review of the alternatives, if the Board decides to withhold its approval, it will notify the applicant, RIDOT, and/or the municipality in writing and the project shall not proceed.

10. Appeal by Applicant. Within twenty (20) days of receipt from the Board of a decision to withhold approval of the project, the

applicant, RIDOT and/or the municipality may request in writing a full evidentiary hearing before the Board in accordance with Rhode Island General Laws 42-35-9-12. The project shall not proceed until the hearing is completed, and a decision and order are rendered. No further administrative review of this determination is available.

11. Judicial Review. Upon receipt of a written adverse effect decision and final order of the Board, the applicant may obtain judicial review in accordance with Rhode Island General Laws 42-35-15.

12. Fulfillment of the Terms of a Memorandum of Agreement. When a Memorandum of Agreement exists, the applicant shall carry out the undertaking in accordance with the terms. Failure to carry out the terms requires the applicant to resubmit the project to the Board for comment in accordance with Section V of the Board's Procedures for Review.

D. Miscellaneous

1. Public Request to the Board. Any person may request the Board to determine whether a project falls within the scope of this Board's jurisdiction and is subject to review in accordance with these Rules. Communications from the public will be reported to the full Board at its next meeting.

2. Determination of Jurisdiction. Upon receipt of a public request, the Board shall advise the person making the request and the party performing the activities which fall within the jurisdiction of the Board of their finding. An inquiry to the Board does not suspend action on an undertaking. If the Board finds that the activity or project is subject to review, the Board shall immediately notify the party performing the activities to stop any actions which would preclude the Board's opportunity to complete its review and require that party to make application to the Board in accordance with Section V of these Rules.

VII. Additional Provisions.

A. Emergency Provisions. When compliance with these Rules would pose a serious threat to public safety, the Chairperson may waive

compliance to the extent necessary to protect the public. The Chairperson will promptly inform the Board of taking an action under this section, and if a majority of the Board's members object within three (3) days, such emergency action is rescinded.

B Severability. If any section or provision of these Rules is held invalid by a court of competent jurisdiction, the remaining sections or provisions of these Rules shall not be affected thereby.

Rhode Island Scenic Roadway Board
Two Capitol Hill
Providence, RI 02903

Municipality

Application Number

SCENIC ROADWAY CONSENT FORM

Pursuant to Rhode Island General Laws 24-15-3, the undersigned owner(s) of property identified as

Lot(s) _____ on the City/Town of _____ Tax Assessor's

Plat Number _____ consents/consent to the designation of

of any portion thereof as a Scenic Roadway.

(Signature)

(Print Name)

(Signature)

(Print Name)

-

FOR CITY/TOWN USE ONLY:

The lineal lot footage abutting said Lot(s) _____ on Tax Assessor's Plat
Number _____ dated _____ is _____ feet.

Tax Assessor
City/Town _____

Date _____