

**TOWN OF PLYMOUTH
PRIVATE AND GRAVEL ROADS
ROAD MANAGEMENT AND REPAIR BYLAW
Chapter 162, Article II**

PREAMBLE

Whereas, the public safety and convenience require the orderly management of the Town's current road system; and

the public interest will be served by providing for a system for accommodating increases in vehicular traffic caused by population growth; and

the Town's environmental, historic and scenic character and resources are threatened by unregulated or unplanned changes to existing roadways;

Now, therefore, the following amendments to Chapter 162, Article II of the General Bylaws of the Town are enacted for the purpose of regulating the maintenance and improvement of certain private and/or unpaved roads within the Town of Plymouth. The amendments to Chapter 162, Article II of the bylaws are intended to accomplish the aforesaid goals by:

1. establishing a system for classification of roads according to use patterns and current and anticipated traffic volumes;
2. creating an orderly process for appropriate physical improvement or other change to select roads within the Town;
3. providing for an alternate funding mechanism for road improvements; and
4. establishing a method for public review of changes which may threaten the environmental, historic, or scenic attributes of roads so classified with those attributes

Warrant Article/Motion – To see if the Town will vote (Moved:) to amend Chapter 162 of the Town of Plymouth Bylaws, Article II, by deleting the present Article II, §162-9 through §162-14 and substituting therefor the following as new c. 162, Article II, and renaming Article “Road Management and Repair.”

§ 162-9. Definitions.

1. Abutter – an owner of property whose property adjoins or touches a road at any point.
2. Average Daily Trips (ADT) – average number of motorized vehicles using any road each day.
3. Collector Road – road that serves to connect to other roadways.
4. Department/Director – the Director of Public Works or designee thereof.

5. Grading – a form of temporary repair of an unpaved road limited to the leveling and restoration of the surface.
6. Gravel Road Standard – description of design, construction and maintenance standards for roads having a permeable travel surface, generally consisting of an excavated base, graded and crowned subsurface, and stabilized travel surface. This standard may be further specified in regulations of the Director.
7. Local Road – road used primarily by abutting landowners, not serving as a Collector Road, with ADT of fewer than 200. This standard may be further specified in regulations of the Director.
8. Major Collector – road use by general traffic that connects a Minor Collector or Local Road to a Principal Arterial road, with a traffic count in the range of 1000 - 5000 ADT.
9. Minor Collector – road used by general traffic to connect neighborhoods, or connect a Local Road to a Major Collector, with a traffic count in the range of 200 - 1000 ADT.
10. Minor Collector of Special Character (MCSC) – a type of Minor Collector road, having recognized environmental, historic and/or scenic characteristic, that is subject to public review through the Road Review process prior to modification of layout, design or surface material, with the exception of upgrades to Gravel Road Standard, in accordance with standards in this bylaw developed and administered by the Board of Selectmen and Planning Board, with input from the Director and the Roads Advisory Committee.
11. Paving – application of an impermeable surfacing material, including, but not limited to, bituminous asphalt.
12. Principal Arterial Road – a road that directly connects to a State Road or serves as a major connector to neighboring towns, with a traffic count of over 5000 ADT.
13. Private Road – a road that has not become public by action of Town Meeting, the Commonwealth of Massachusetts or the County of Plymouth, or by dedication or prescription.
14. Private Road Management Policy – a written policy that shall be developed by the Director analyzing and identifying those private roads the temporary repair of which is deemed to serve the general public interest.
15. Road Classification – a system for categorizing roads pursuant to regulations of the Board of Selectmen consistent with this bylaw, based upon network hierarchy, traffic count (ADT), and other characteristics, where major road categories

include, but are not limited to, the following: State Road, Principal Arterial Road, Major Collector, Minor Collector, Local Road, MCSC and RCR. This term applies to the addition of any road to, removal from, or change in any MCSC or RCR classification.

16. Road Improvement, Major – construction or reconstruction, paving of previously unpaved surfaces, widening, straightening, clearing of substantial amounts of vegetation.
17. Road Improvement, Minor – repair, grading or other minor alteration to roadway surface within the existing layout, and minor drainage or safety improvements, not having the effect of altering the road so as to allow for a significant increase in ADT or speed of vehicular travel.
18. Road Review – public process involving the Board of Selectmen, Planning Board, and Roads Advisory Committee for the purpose of assisting the Director in the management of road classification, improvement, management, and betterment issues for MCSC and RCR, and other such matters as the Board of Selectmen may request, in accordance with the improvement provisions for MCSC and RCR in §162-11, road review and classification provisions in §162-12 and §162-13, and betterment provisions in §162-14.
19. Roads Advisory Committee – The Board of Selectmen shall appoint a Roads Advisory Committee of such number and composition as the Board of Selectmen shall determine appropriate. The Committee shall include at least one member each from the Board of Selectmen and Planning Board, or their designees, and shall be responsible to the Board of Selectmen for review and recommendations concerning:
 - a. classification or re-classification of a gravel or private roads;
 - b. requests for paving of a MCSC;
 - c. requests for upgrading to Gravel Road Standard and paving of a RCR;
 - d. road management issues;
 - e. betterment assessment issues; and
 - f. other road-related issues at the request of the Board of Selectmen.
20. Rural Conservation Road (RCR) – a low traffic road, whether or not currently paved, that traverses land significant to the environmental, historic, and/or scenic heritage of the neighborhood in which it is located and/or the Town, the character of which is threatened by significant unplanned and undesired traffic growth as a result of nearby development or overall town growth.
21. State Road – a regional connector road owned or controlled by the Commonwealth of Massachusetts, including, but not limited to Routes 3, 3A, and 44.

22. Temporary Repair of Private Road – minor corrective or restorative work done on a private road, such grading, partial base reconstruction or minor drainage improvement.

§162-10. Roads Qualifying for Work by Authorization of Board of Selectmen.

The Town may expend funds for construction, maintenance and repair of accepted Town ways and for temporary repair of any private road only in compliance with this Article. Other than temporary repair to a private way open to the public, as may be authorized by the Board of Selectmen consistent with this by-law, the Town shall do road improvement or other work only on roads which:

1. Have been accepted by the Town, or have become public by dedication or other statutory means, by prescription; or
2. Are shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, G. L. c. 41, §§81K-81GG, having no outstanding bonds or covenants requiring completion of those roads; or
3. Provide access to town facilities, in which case, work done under this subsection shall be limited to providing minimum access for town equipment to such facilities only, and shall not be construed as maintenance and use as a public way within the meaning of G. L. c.41, §81L; or
4. Have been certified as maintained and used as a public way by the Town Clerk, pursuant to G. L. c.41, §81L and have been open to the public for a period of six or more years.

§162-11. Improvement to Minor Collector of Special Character and Rural Conservation Road – Upgrade Paths.

A. Minor Collector of Special Character Road (MCSC)

Minor Collector of Special Character Road(s) may be (a) upgraded to Gravel Road Standard *without* seeking approval through the Road Review process described in §162-12, and (b) paved, in accordance with the Road Review process, also described in §162-12. These improvements may be funded through any combination of general funds, betterments, gifts, or payments by benefited parties. Unpaved MCSC roads may not be paved without first being upgraded to Gravel Road Standard.

B. Rural Conservation Road (RCR)

Rural Conservation Roads may be (a) upgraded to Gravel Road Standard *subject to* the Road Review process described in §162-12 and (b) paved, also *subject to* the Road Review process described in §162-12. These improvements may be funded through any combination of general

funds, betterments, gifts, or payments by benefited parties. Unpaved RCR roads may not be paved without first being upgraded to Gravel Road Standard.

§162-12. Road Review Process for MCSC and RCR.

The following process applies to:

1. Inclusion, removal, reclassification of MCSC and RCR;
2. Requests for paving of a MCSC;
3. Requests for upgrading to a Gravel Road Standard and paving of a RCR;
4. Road management issues related to MCSC and RCR;
5. Betterment assessments related to MCSC and RCR; and
6. Other road-related issues at request of Board of Selectmen.

Road Review Process:

- A. Matters subject to the Road Review process may be generated by (a) a petition to the Board of Selectmen from 75% of abutters; (b) the Board of Selectmen; (c) the Planning Board; or (d) the Director of Public Works.
- B. Prior to consideration by the Board of Selectmen, the Director shall conduct an assessment of the following: whether improvement or paving of the road is consistent with the Director's Road Management Program; whether the road has been previously improved to Gravel Road Standard; whether, under the circumstances of traffic demand, road design and other safety considerations, upgrading or paving of the roadway is warranted; whether there has been any prior public input to the Director on that matter and to what effect; and the estimated costs of road preparation and other work. The Director shall also evaluate comparative costs, if any, of requested actions to users of the road and to the Town. This report shall be delivered to the Board of Selectmen and Roads Advisory Committee.
- C. The Planning Board shall conduct a public hearing to obtain comment on the above petition and recommendations, and, after consultation with the Director of Public Works and the Director of Planning and Development, shall submit a written report with recommendations to the Board of Selectmen, copied to the Roads Advisory Committee. This report shall include comments about the consistency of the proposed changes with the Town's Master Plan.
- D. The Roads Advisory Committee shall submit a written report with recommendations to the Board of Selectmen.

- E. The Board of Selectmen shall review the recommendations and act on said petition. If public funds are to be used to achieve all or part of the Board's decision, the funds will be subject to town meeting appropriation.

§162-13. Eligibility Requirements for Inclusion and Classification into a MCSC and RCR.

- A. The change in classification of any road classified as MCSC or RCR in the Road Improvement Regulations of the Board of Selectmen dated April 18, 2006, or the addition to or removal from said classifications of any road, shall be made only in conformance to regulations of the Board of Selectmen adopted pursuant to this bylaw.
- B. In addition to the general characteristics contained in the definitions of MCSC and RCR, the following specific environmental, historic, scenic and/or geometric attributes must be established for inclusion in the MCSC or RCR categories:
 - 1. Proximity to surface water so as to be within the jurisdiction of the Conservation Commission pursuant to State or Town law;
 - 2. Existence of rare or endangered species;
 - 3. Proximity to historic attributes, including, but not limited to, ancient cemeteries, publicly recognized historic structures and monuments;
 - 4. Special landscape or scenic features, including, but not limited to, trees and canopies, scenic vistas, stone walls or other distinguishing constructed elements;
 - 5. Abutting land designated conservation land, State or Town Forest;
 - 6. Proximity of residences within 50 feet of the traveled road edge, which would be significantly impacted by changes to the road; and/or
 - 7. Presence of or suitability for pedestrian or bicycle use that may be threatened by proposed changes.

Inclusion must also be consistent with the Town's Master Plan.

§162-14. Betterment Assessment – Public and Private Roads.

Assessment for the cost of improvements to any public road, or to the upgrade of a MCSC or RCR, or for temporary repair to any private way pursuant to this bylaw shall be made upon the several parcels of land receiving direct or indirect benefit, the amount thereof to be determined by one or a combination of the following methods:

- A. a fixed uniform rate based upon the estimated average cost of said work according to the frontage of such land on any way in which work is done; or
- B. according to the area of such land within a fixed depth from such a way; or
- C. according to valuation for purposes of taxation in the last annual assessment; or
- D. according to the developable residential units of the benefited land; or
- E. according to trip generation projections using Institute of Traffic Engineers (ITE) guidelines; or
- F. according to two or more or all of such measures; or by any other reasonable method.

The donation of land or easements directly related to said improvements may be considered in lieu of monetary considerations.

Once a project is approved, at least 75% of abutters must agree to acceptance of the betterment and all its obligations prior to expenditure of town funds or commencement of work.

In making such assessment, the Board of Selectmen may, as it determines appropriate, consult with and/or request a report from the Director of Public Works containing a recommendation on the proposed work, its nature and detailed cost estimate, and/or consult with the Roads Advisory Committee.

§162-15. Major and Minor Improvements to Local Roads.

Local Roads may be upgraded to Gravel Road Standard or paved, or receive Temporary Repair of a Private Road, by petition of 75% of abutters and owners, pursuant to the following process. Costs may be borne by betterment, payment by other benefited parties, gifts or otherwise.

1. Petition - 75% of the fee owners of and abutters to any private Local Road that has been open to the public for vehicular travel for a period of at least the prior 6 years, may petition the Board of Selectmen for authorization of temporary repair by the town to such private road, subject to the provisions of this Chapter.
2. Procedure - Upon receipt of said petition, the Board of Selectmen may, but is not obligated to, request the Director of Public Works to provide a report and recommendation thereon, including recommendations as to the necessity for any temporary repair and identification of any public good to be achieved thereby, the nature of any recommended repair, including limitations thereon, and an estimate of the cost of such temporary repair, and any betterments to be assessed.
3. The Director, shall meet with petitioners and outline optional solutions, relative costs estimates and possible sources of funding for each option.

4. If 75% of abutters agree to an option and assume the financial and other obligations connected with said option, the town may proceed with the legal, engineering and other work required to make the road improvement
5. The town shall not undertake to make any Local Road improvement unless 75% of abutters to the road shall first agree in writing, pursuant to §162-17, to release the town from any claim of public way status or liability, and agree to indemnify the town and to pay any betterment assessment in excess of the amount, as estimated by the Director.

§162-16. Temporary Repair of Private Roads.

The town shall make temporary repair of private roads only as to such roads as are actually open to public use, and as authorized and approved by the Board of Selectmen; and provided that Town Meeting has appropriated money therefor in a general fund or special article for repairs on private ways, or there is available another source of funding of all related costs, whether by betterment, payment by benefited parties, gifts or otherwise.

§162-17. Liability; Indemnity Agreement.

- A. The Town shall not be liable for any damages to persons or property caused by such repairs, nor for any claim of public road status pursuant to G.L. c.84, §25 on account of such repair.
- B. The Board of Selectmen shall require an indemnity agreement to be executed by the petitioners indemnifying the town for all claims and damages which may result from making such repairs, including a waiver of any claim of public road status pursuant to G.L. c.84, §25 on account of such repair. Such agreement shall be acknowledged before a notary public, be recorded with the Plymouth District Registry of Deeds and be binding upon successors and assigns of affected property owners.

§162-18. Regulations.

- A. The Board of Selectmen shall adopt Road Classification Regulations for the purpose of identifying roads classified as MCSC and RCR and for otherwise managing road classification in a manner consistent with this Article. At a minimum, the Road Classification Regulations shall be amended from time to time to indicate additions to, removal from, or changes in the classification of any road, consistent with this Article.
- B. The Director of Public Works may also, at the request and approval of the Board of Selectmen, adopt regulations in furtherance of the purpose and administration of this Article.