

**TOWN OF HARWINTON
ANNUAL TOWN MEETING
TUESDAY, FEBRUARY 21, 2006**

**ORDINANCE CONCERNING THE PRESERVATION OF HIGHWAY
BOUNDARY STONE WALLS**

SECTION 1. AUTHORIZATION, PURPOSE. This Ordinance is adopted pursuant to Connecticut General Statutes, §§7-148(c)(6)(C), 7-148(c)(10), and 7-152c, and in support of the duties and authority conferred on the Board of Selectmen pursuant to Connecticut General Statutes, §§13a-39, 13a-41, 13a-61 and 13a-99. The purpose of this Ordinance is: (a) to preserve highway boundary stone walls as important monuments, (b) prevent the scavenging and destruction of these historic agrarian landmarks, (c) preserve Harwinton's historic scenic highways, and (d) regulate excavation within or adjacent to highways.

SECTION 2. DEFINITIONS. As used in this Ordinance:

(a) "Town highway" means any improved or unimproved highway of the Town of Harwinton designated as such on the current town aid road list prepared by the Highway Supervisor pursuant to Connecticut General Statutes, Chapter 240, Part II A, and any other highway of the Town of Harwinton which has not been statutorily discontinued or lawfully abandoned.

(b) "Highway boundary stone wall" means a stone or masonry wall, or portion thereof, located on, or adjacent to, the boundary between a town highway and the property of the adjacent owner, which thereby constitutes a monument which determines, either directly or as a point of reference, the limits of the highway commonly known as the "highway line" or the "street line," which delineates the limits of the public highway.

(c) "Highway Supervisor" means that town official appointed by the Board of Selectmen to supervise the construction and maintenance of town highways on behalf of the Board of Selectmen.

SECTION 3. PERMIT, REQUIREMENTS. (a) No property owner, and no person acting on behalf of a property owner, shall remove, dismantle, demolish, bury or relocate a highway boundary stone wall without first having obtained a permit from the Highway Supervisor, acting on behalf of the Board of Selectmen.

(b) The application fee, application procedure, bond and insurance requirements shall be the same as provided in the Harwinton Driveway Ordinance (No. 94).

(c) The Highway Supervisor may issue a permit if he or she determines that the proposed removal, dismantling, demolition, burying or relocation of a highway boundary stone wall is:

(i) permitted as of right under this Ordinance;

(ii) required for safe driveway access, highway intersection layout or sight lines, or other necessary highway improvements approved by the town's professional engineer or traffic safety consultant;

(iii) restricted to the minimum amount of highway boundary stone wall disturbance necessary to accomplish the foregoing objectives; and

(iv) includes proposed measures to mitigate the loss of that portion of the highway boundary stone wall, such as landscaping, fencing and/or relocating or reconstructing the stone wall in an alternate location on the owner's property as part of a highway boundary stone wall or other property boundary stone wall.

(d) Upon completion of the work, the permittee shall submit a recordable mylar, Class A-2 survey map of the highway line along the owner's property and shall set concrete or granite highway monuments in accordance with such survey map and statutory requirements, which survey map shall be filed in the Harwinton Town Clerk's Office.

SECTION 4. ACTIVITIES PERMITTED AS OF RIGHT. The following activities shall be permitted as of right under this Ordinance: (a) maintenance of existing driveways and barways in highway boundary stone walls; (b) the construction of new driveways and barways in highway boundary stone walls pursuant to a permit issued by the Highway Supervisor or the State of Connecticut; (c) the maintenance, rebuilding or landscaping of highway boundary stone walls in their current locations; (d) drainage openings and drainways pursuant to historic rights to drain or easement to the Town of Harwinton or the State of Connecticut; (e) highway maintenance, necessary construction, approved safety improvements, and the removal of highway obstructions and encroachments by the Town of Harwinton or the State of Connecticut.

SECTION 5. SUBDIVISIONS. The regulation and protection of stone walls within proposed subdivisions or adjacent to proposed subdivision roads shall be regulated by the Planning Commission under the Harwinton Subdivision Regulations until such time as the subdivision roads are accepted as public highways of the Town of Harwinton.

SECTION 6. PENALTY. Any person who knowingly violates this Ordinance by engaging in the removal, dismantling, demolition, burying or relocation of a highway boundary stone wall without a permit may be issued a cease and desist order by the Board of Selectmen. If such person fails to comply with such order, such person may be issued a citation with a \$100.00 fine for each violation of this Ordinance. The procedure for issuing such a citation, the right to a hearing and the right to appeal shall be the same as that specified in the Harwinton Ordinance Establishing Citation Procedures and Fines for Violations of the Zoning Regulations and the Inland Wetlands and Watercourses Regulations (No. 118, adopted January 24, 2006).

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect fifteen (15) days after publication of a summary of its provisions in accordance with Connecticut General Statutes, §7-157(b).

ADOPTED AT TOWN MEETING ON: February 21, 2006.
PUBLISHED IN THE: ~~Republican-American~~ ON February 24, 2006.
EFFECTIVE DATE: March 11, 2006.
HARWINTON TOWN RECORDS: VOLUME 7, PAGES 182-183.

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