

To see if the Town will vote to amend Article VI, Chapter 217 of the Code of the Town of Lynnfield as follows:

Article VI Scenic Roads

[Adopted 4-27-2015 ATM by Art. 19]

§ 217-36 Purpose.

~~The purpose of this bylaw is to allow at Town Meeting the recognition of specific roads in Lynnfield as "scenic roads." By so doing, the public right of way along these roads shall not be altered, improved, or reconstructed without approval. For a road designated a scenic road, any repair, maintenance, reconstruction, paving or construction of an additional driveway; cutting or removal of trees; the tearing down, burial, relocation, or destruction of stone walls by any person, public or private, shall require written consent of the Planning Board. No privately owned properties shall be subject to this bylaw.~~

§ 217-37 Authority and Purpose.

A. Authority. The enactment of this bylaw is authorized by M.G.L. c. 40, § 15C, which provides, in part, that any repair, maintenance, reconstruction or paving work done with respect to any road, as defined in § 217-38 of this chapter, designated as a scenic road in § 217-39(C) of this chapter, shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls or portions of stone walls within the public right-of way of a designated scenic road, except with prior written consent of the Planning Board after a public hearing.

B. Purpose. The purpose of this article is to maintain the natural, historic, and scenic character of the town's roads. The article ensures that (1) town roads will be recommended for designation as scenic roads in accordance with the criteria stated in this article; and (2) trees and stone walls within the public rights-of-way of all designated scenic roads will not be altered without the public hearing required by, nor without following the other procedures set forth in, this article.

§ 217-38 Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

APPLICANT

Any person or entity that undertakes an action requiring prior written consent pursuant to this bylaw who is therefore required to file an application with the Planning Board.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK

Any such work done within the public right-of-way by any person or entity, public or private, including, but not limited to, any work on any portion of such right-of-way,; and the construction of any new driveway or private way, when such work involves the cutting down of trees or the tearing down or destruction of stone wall~~the roadway and/or construction of an additional driveway.~~

PUBLIC RIGHT-OF-WAY

The area within the boundaries of the public way. If the boundaries are unknown, any affected trees or stone walls shall be presumed to be within the public right-of-way until shown to be otherwise.

SCENIC ROAD

The entire area within the boundaries of the public right-of-way other than a state highway or a numbered route.

STONE WALL

A structure of natural stone constructed to enclose, divide, or define an area, and located at least partially within the boundaries of the public right-of-way.

TEARING DOWN OR DESTRUCTION OF STONE WALLS

The defacement, removal, physical covering (other than naturally occurring plant covering) or rearrangement of a stone wall as defined herein.

TREE

A tree located within the public right-of-way that is larger than six inches DBH (diameter at breast height).

§ 217-39 Designation of scenic roads.

A. Considerations for scenic road designation. The determination of which roads or portions of roads shall be recommended as scenic roads shall consider these criteria:

- (1) Overall scenic beauty of the public way.
- (2) The contribution of any vegetation, stonewalls, fences, shoulders or tree canopy.
- (3) The potential for lessening of scenic beauty, aesthetic value or historical significance.

B. Procedures to designate scenic roads. Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission, any road shall, upon vote of a majority of the voters present and voting at any Annual or Special Town Meeting, become a scenic road subject to the provisions in this bylaw. A public hearing regarding the proposed roads shall be conducted prior to Town Meeting.

C. Designated Scenic Roads. Notwithstanding any other provision hereof, and in addition to any roads designated "scenic roads" hereafter pursuant to § 217-39, the following previously designated "scenic roads" (with year of designation) shall retain their status as "scenic roads":

Chestnut Street (2016)

Essex Street (2016)

Lowell Street (2016)

Main Street (2016)

Summer Street (2016)

§ 217-40 Procedure for actions on scenic road.

~~A. Determination of applicability. The applicant shall submit a written request to the Town Engineer, who shall determine the boundaries of the public right-of-way relative to the location of any specific tree(s) and any specific stonewall(s) to determine the applicability of the bylaw. A copy of the written request shall also be filed with the Planning Board and the Director of Public Works and/or Tree Warden.~~

A. Actions prohibited without permission. Except as expressly authorized by the Planning Board hereunder, and as set forth in § 217-41, below, no person shall perform or cause to be performed any repair, maintenance, reconstruction or paving work on any portion of a designated scenic road which involves the cutting down of trees or the tearing down or destruction of stone walls or portions thereof.

B. Scope of work Filing. Any person or organization or agency seeking the consent of the Planning Board under M.G.L. c. 40, § 15C (Scenic Roads) regarding repair, maintenance, reconstruction or paving work that may involve the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, on a designated scenic road shall file a request with the Planning Board and submit the following information:

(1) A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls. Two copies of the plan showing the proposed changes are required.

(2) A statement of purpose(s) for the proposed changes.

(3) Any further explanatory material useful to adequately inform the Planning Board.

~~The applicant shall deliver to the Planning Board an application with a clear and legible site plan, together with a written description detailing the scope of the proposed work, which will cause the Planning Board to schedule a public hearing within a reasonable amount of time.~~

C. Public hearing notice. A notice of public hearing shall be advertised in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing, the cost of which shall be borne by the applicant.

D. Director of Public Works and/or Tree Warden. Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Director of Public Works and/or Tree Warden acting pursuant to this bylaw. Consent to an action by the Planning Board shall not be construed as implying consent by the Director of Public Works and/or Tree Warden, or vice versa.

E. Decision of Board. Within 45 days after submission, the Planning Board shall conduct a hearing and take final action thereon by approving, modifying, or disapproving the application. Failure of the Board to take final action within the time allotted shall be construed as constructive approval. Extension of time may be agreed upon at the written request of the applicant.

F. Appeals process. The applicant can appeal the decision of the Planning Board to the Board of Selectmen within 21 days. The appeal shall be submitted in writing in which the reasons for the appeal are

itemized.

G. Enforcement.

- (1) Without waiving any other enforcement authority, violations of the Scenic Road Bylaw shall be punishable by a fine of \$300. In addition, the property owner and whoever is responsible for the violation shall be required within 60 days to:
 - (a) Restore any altered stone walls to the condition they were in prior to the alterations; and
 - (b) Plant tree(s) of similar and native species to those which may have been cut or removed; or
 - (c) Implement other mitigating measures as may be directed by the Planning Board.
- (2) The failure of the property owner to restore or mitigate as directed by the Planning Board shall be deemed a subsequent and separate violation. The Planning Board may assess further penalties of up to \$300 for each fourteen-day period during which any violation has not been corrected as directed by the Planning Board.

§ 217-41 **Actions that do not require approval.**

- A. Emergency repair. Nothing in this bylaw shall prevent any work being performed as the result of emergency conditions that threaten the lives, health, and/or safety of the public.
- B. Normal repair. The provisions of this bylaw will not restrict either the Department of Public Works or any utility companies from conducting normal maintenance or repairs
- C. Stonewall repair. A property owner's repair of a stonewall using natural stones and of similar appearance to the original wall shall not be restricted.

D. Temporary removal of stone wall. Temporary removal and replacement of a stone wall or portion thereof at the same location with the same materials is permitted without Planning Board consent, but only if the Lynnfield Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

§ 217-42 **Severability.**

If any section or subsection of this bylaw is found to be unconstitutional or contrary to the laws of the Commonwealth of Massachusetts or the United States of America, then that section or subsection shall be stricken from this bylaw, and the remainder of this bylaw shall remain in full force and effect.

or to take any other action in connection therewith.

Submitted by PLANNING BOARD