

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.**

The enactment of this bylaw is authorized by MGL c. 40, § 15C.

**§ 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 the roadway and/or construction of an additional driveway.

**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.

**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.

**§ 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.
- B. Scope of work. 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.

**§ 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.