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PLANNING BOARD

WRENTHAM GENERAL BYLAW - ARTICLE 7.12

SCENIC ROADS

1. PURPOSE

The purpose of this bylaw is to increase environmental protection, maintain aesthetic qualities, and preserve the historical values of designated roads in the Town. They bylaw regulates certain roadway repair, maintenance and reconstruction activities in order to help achieve these objectives.

2. DEFINITIONS

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. (Massachusetts General Law) Chapter 40, Section 15C, the following terms contained in that statute shall be defined as follows:

- A. "Cutting of removal of trees" shall mean the destruction of one or more trees having a trunk diameter of four (4) inches or more measured four (4) feet from the ground, trimming of major branches or trimming of roots sufficient in the Tree Warden's opinion to cause eventual destruction of a tree. Not included in this definition is the routine or emergency maintenance which removes only permanently diseased or damaged limbs, trunks, or roots and dead whole trees.
- B. "Repair, maintenance, reconstruction, or paving work" shall mean any work done within the right of way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is included to the extent such work takes place within the right-of-way. Roadside clearing of trees to provide for vehicle clearance or for improvements to line-of-sight shall also be included in this definition. Construction or alteration of water, sewer, electric, telephone, cable TV or other utilities within the right-of-way is also included.
- C. "Road" shall mean the right-of-way of any way used and maintained as public way including the vehicular traveled way, plus shoulders, the portion of intersecting driveways within the right-of-way, and necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, and paths. When the boundary of the right-of-way is in issue so that there is a question as to whether or not certain trees or stone walls or portions thereof are within or without the way, the trees or stone walls shall be presumed to be within the way until the contrary is shown.
- D. "Tree" shall mean a perennial woody plant whose trunk has a diameter of four (4) inches or more as measured four (4) feet above the ground.
- E. "Stone Wall" shall mean an assembled grouping of stones comprising at least one (1) cubic foot of stone per linear foot and totaling five (5) or more feet in length.
- F. "Tearing down or destruction of stone walls" shall mean the removal or covering with earth of more than two (2) linear feet of stone wall. Temporary removal and replacement with the same materials at the same location within thirty (30) days shall not be construed to be within this definition.

3. PROCEDURE FOR SCENIC ROAD DESIGNATION

A. Process:

1. Any person or group of persons may submit an application to the Town Administrator to request that a public road be designated as a scenic road. Such application shall be accompanied by a written description of the characteristics of the road that qualify it for protection afforded by this chapter.

2. The Town Administrator shall refer all such applications to the Planning Board, the Conservation Commission and the Historical Commission within 15 days of the date of receipt of the application.
3. Within 45 days of receipt of an application thereunder, the Planning Board, the Conservation Commission and the Historical Commission may make a recommendation to the Board of Selectmen or request in writing that the road described in the application be designated a scenic road. Upon recommendation, the Board of Selectmen shall include a warrant article for the next Town Meeting.
4. Designation is by majority vote of Town Meeting.

B. Findings.

In considering whether to recommend a road as a scenic road to the Town Meeting, the Board shall consider the following factors:

1. Historic significance of affected trees and stone walls.
2. Contribution of trees and stone walls to scenic beauty.
3. Exceptional qualities of trees in terms of age, spread, species or specimen size.
4. Protection of natural resources as well as scenic and aesthetic quality of area including scenic views.
5. Bordering land uses, present and prospective, and how they impact the importance of retaining trees and walls.
6. Feasibility of accomplishing the intent of the Scenic Roads Act in light of road design and use.
7. Non-qualifying roads. Numbered routes and state highways may not be designated scenic roads.

4. REVIEW PROCEDURES FOR WORK WITHIN DESIGNATED SCENIC ROADS.

- A. Scenic road work permit: The Planning Board shall issue a scenic road work permit in accordance with the following review procedures. The Planning Board shall advertise, notify abutters and hold a public hearing on all work permit applications filed hereunder, in accordance with the notice requirements of M.G.L. Chapter 40A, Section 11.
- B. Activities requiring approval: Within a public road layout which has been designated a scenic road, the following activities shall require approval of the Planning Board in accordance with the provisions of this article: The cutting or removal of trees and/or the tearing down or destruction of stone walls or portions thereof, in connection with repair, maintenance, reconstruction, paving or other work within the layout of a public road.
- C. Imminent threats to public safety: In cases where an imminent threat to public safety newly arises and does not allow sufficient time to obtain advance approval of the Planning Board as required by this chapter, the Planning Board must be notified within five business days of any action taken which, had such a threat not arisen, would have been a violation of this article.
- D. Application content:
 1. A notice identifying the location of the proposed activity which enables readers to reasonably locate it on the ground, without need for additional references, describing the proposed changes to tree(s) and/or stone wall(s).
 2. A certified abutters list prepared by the Wrentham Assessor's Office including owners of land which is both abutting and within 300 feet of the affected scenic road location.
 3. A plan, describing the proposed activity and mitigation measures, including protection, restoration and any compensatory efforts.
 4. A certificate by the petitioner attesting to the marking of all trees and walls to be affected, sufficient to enable the Board and all interested parties to identify those trees and walls.
 5. Photographs of all stone walls and trees within the proposed work area.
 6. Application form.
- E. Public Shade Tree Act

Whenever feasible, notice shall be given and Planning Board hearings shall be held in conjunction with those held by the tree warden acting under M.G.L. Chapter 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the tree warden, or vice versa. The Planning Board decision shall contain a condition that no work should be done until all applicable provisions of the Public Shade Tree Law, M.G.L. Chapter 87, have been complied with.

F. Fees:

Actual advertising costs and abutter notification mailings for a scenic roads work permit shall be borne by the petitioner and shall be billed directly to the petitioner. A scenic roads work permit fee shall be established by the Planning Board to cover the town’s administrative costs.

G. Compensatory actions

1. Since the purpose of this chapter is to protect the scenic quality and character of designated scenic roads, the Planning Board shall approve the proposed work only upon finding that adequate compensatory actions have been included in the applicant’s proposed plan. The Planning Board shall consider the value of compensatory actions, such as the planting of new replacement trees or the reconstruction of stone walls, in making its decision. Reasonable measures should be taken in road widening and traffic safety projects on scenic roads so as to minimize tree removal and destruction of any portion of a stone wall. All feasible measures should be employed in the construction to minimize the removal of trees, stone walls and the grade of adjacent lands.

2. Limited review standards

i. Trees destroyed shall be replaced with nursery grade trees on the following basis:

Tree Removed	Replacement
Up to 12” dbh caliper	2 trees min., 2”
12” to 24” dbh caliper	6 trees min., 2” caliper
Over 24” dbh caliper	8 trees at min., 2” caliper

ii. The Planning Board shall approve the final specimen and replanting location selected with a preference for replacement tree(s) planted within the outer edge of the right-of-way.

iii. The preference is for replacement tree(s) to be planted in the vicinity of the original tree removal location, however, in the event compensatory planting is not feasible or desirable near the project site, the Planning Board, upon recommendation from the Tree Warden, may authorize compensatory planting in alternate locations based on the following preference:

1. First: Compensatory tree planting will occur within the outer edge of the right-of-way of the same scenic road, in close proximity to the proposed location of tree removal.
 2. Second: Compensatory tree planting will occur in suitable location(s) on same scenic road as proposed tree removal location.
 3. Third: Compensatory tree planting will occur on another scenic road in Wrentham.
 4. Fourth: Compensatory tree planting will occur in another location in Town.
- iv. Stone walls shall be replaced so as to reconnect with undisturbed walls -wherever physically possible.
- v. Reasonable steps to be described in Article 7.12, Section 4. D. iii. will be taken to insure protection of tree trunks, branches, and root systems of remaining trees in the project area from temporary or permanent damage.

H. General: The Planning Board, after a public hearing consistent with the provisions of this article of the Town By-laws, may adopt additional regulations for carrying out provisions hereof.

5. ENFORCEMENT

The Planning Board and the Tree Warden shall have the authority to enforce the provisions of this section, as applicable.

- A. Any violation of this bylaw, whether for the tearing down or destruction of stone walls or the cutting or removal of trees, shall result in a fine levied against the offending property owner. The first violation shall result in a fine of \$100, the second violation shall result in a fine of \$200, and the third violation shall result in a fine of \$300. Each day, or portion thereof, that a violation of this bylaw continues shall be deemed a separate offense.
- B. In addition to the foregoing remedies, the Town of Wrentham acting by and through its Planning Board, and with the approval of the Board of Selectmen, shall have all other legal and equitable remedies, which may exist, including without limitation the right to seek injunctive relief.
- C. In addition, and as an alternative method of enforcement, the Town of Wrentham may in its discretion enforce the provisions of this bylaw in the manner provided in MGL c. 40, §21D.

6. DESIGNATED ROADS

The following are designated as scenic roads as provided for in M.G.L. Chapter 40 Section 15C. The entire length of each road is protected under this by-law, unless more specific limits are defined:

Arnold Street	Ellery Street	Ray Road
Beach Street	Everett Street	Summer Street
Bennet Street	Hancock Street	Taunton Street (from Senior Center to Plainville Town Line)
Berry Street	Madison Street (from Stonybrook Ln to Rte. 1)	Vine Street
Burnt Swamp Road	Myrtle Street	Wampum Street
Cherry Street	North Street	West Street (from Spring St. to Bellingham Town Line)
Chestnut Street	Otis Street	Williams Street

7. SEVERABILITY.

In case any section, paragraph or part of this bylaw for any reason is declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

8. APPEALS

The applicant may appeal the decision of the Permit Granting authority to the Board of Selectmen within 30 days of the filing of the decision with the Town Clerk. The Board of Selectmen shall hear the appeal within 60 days of receipt of a notice of appeal. The appeal shall be submitted to the Board of Selectmen by certified letter in which the reasons for the appeal are itemized.