



**Town of Wayland
Scenic Roads Bylaw
Excerpt from the Code of the Town of Wayland**

ARTICLE IV, Scenic Roads

[Adopted 5-4-1995 ATM by Art. 32 (Art. 34 of the 1973 Bylaws)]

§ 158-5. Authority and purpose.

A. Authority. This article is adopted under authority of MGL c. 40, § 15C (Scenic Roads) and MGL c. 40, § 21 and Article 11 and Article LXXXIX, Section 6 of Articles of Amendment of the Constitution of the Commonwealth of Massachusetts.

B. Purpose. The purpose of this article is to maintain the rural, natural, historic and scenic character of the town's roads (as defined herein). 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 (as defined herein) and stone walls within the 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.

§ 158-6. Definitions.

For terms not qualified or defined in MGL c. 40, § 15C (Scenic Roads), the following meanings shall apply for the purposes of this article:

BRANCH -- A living branch that is fully attached to a tree (as defined herein) and that has a diameter of three inches or more 12 inches from the point at which said branch connects to the tree.

CUTTING OR REMOVAL OF TREES -- The removal of one or more trees, trimming of branches (both as defined herein) or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of the tree.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK -- Any work done within a road (as defined herein) by any person or agency, public or private. Construction of new driveways or alteration of existing ones is included, insofar as it takes place within the road. Construction or alteration of water, sewer, electric, telephone, cable television or other utilities within the road is also included.

ROAD -- The entire legal right-of-way of a vehicular traveled right-of-way in Wayland, including any necessary appurtenances, and including bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks. The right-of-way includes the area on and within the boundaries of the

right-of-way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the right-of-way until shown to be otherwise.

TEARING DOWN OR DESTRUCTION OF STONE WALLS -- The destruction of more than ten linear feet of stone wall involving more than one cubic foot of wall material per linear foot above existing grade. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board approval, but only if the Wayland Highway Department is notified before the work begins so that it can confirm that the wall is properly replaced. Repair of a stone wall not involving tearing down or destruction of the wall is not covered by this article.

TREE -- A living tree in its naturally standing position, the trunk of which has a diameter of four inches or more four feet above the ground. Nothing in this definition shall be construed to permit a person, other than the Tree Warden, to trim, cut down or remove a public shade tree.

TREE WARDEN -- The Town of Wayland Tree Warden or its designated deputy.

§ 158-7. Criteria for designation.

A. In determining which roads or portions of roads should be recommended to town meeting for designation as scenic roads, the following criteria shall be considered:

- (1) Overall scenic beauty.
- (2) Contribution of trees to scenic beauty.
- (3) Contribution of stone walls to scenic beauty.
- (4) Age and historic significance of roads, trees and stone walls.
- (5) Built features, such as historic buildings, historic monuments, historic burial grounds, historic structures, farm buildings and fencing.
- (6) Features of the road, such as historic right-of-way, surface, carriage width, use restrictions and nonhistoric bridges.

B. Roads that have previously been designated as scenic roads may be reevaluated using the foregoing criteria.

§ 158-8. Procedure for designation.

The Planning Board, the Conservation Commission or the Historical Commission, or a petition of 10 citizens of the town, may propose scenic road designation for any road other than a numbered route or state highway. The Planning Board then shall hold a public hearing, notifying the Board of Selectmen, the Tree Warden, the Wayland Highway Department, the Conservation Commission, the Historical Commission and the public by advertising twice in a newspaper of general circulation, the first advertisement to appear at least 14 days prior to the date of the public hearing.

A. The Planning Board shall make a recommendation to town meeting on the merits of designation of the road as a scenic road.

B. Following designation by town meeting, the Planning Board shall:

- (1) Notify all municipal departments that may take any action with respect to such road.
- (2) Notify the Massachusetts Highway Department.
- (3) Notify the Commissioners of Middlesex County.
- (4) Indicate such designation on all maps currently in use by municipal departments.
- (5) Notify all utility companies or other such parties that may work on such road.

§ 158-9. Work affecting trees or stone walls; emergencies.

A. Filing. Any person or organization or agency seeking the consent of the Planning Board under MGL 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) The text of the notice of the public hearing, specifying the time, date, place and purpose of said hearing and identifying the location of the proposed action in terms enabling the readers to locate it with reasonable specificity on the ground without the need for additional plats or references and describing in reasonable detail the proposed changes to trees and stone walls.
- (2) A statement of the purpose or purposes for the proposed action.
- (3) Plans, drawings or other explanatory reference material showing the specific design or engineering details.
- (4) Except in the case of town agencies, a fee sufficient for the cost of advertising and notification.
- (5) Any further explanatory material useful to adequately inform the Planning Board.

B. Notice. The Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area, with the first publication of the notice to be at least 14 days prior to the hearing and the last at least seven days prior to the hearing. Copies of the notice shall be sent to the Board of Selectmen, Conservation Commission, Historical Commission, Town Surveyor, Tree Warden and Wayland Highway Department.

C. Timing of the hearing. The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request and shall make a decision within 45 days of that receipt, unless a longer time is agreed to by the applicant.

D. Reporting of decision. The Planning Board shall, within 45 days of receipt of a properly filed request, submit a written determination of consent or denial to the applicant and send a copy thereof to the Board of Selectmen, the Tree Warden and the Town Clerk.

E. Public shade trees. When required by MGL c. 87 (Shade Trees), notice shall be given and Planning Board hearings required by MGL c. 40, § 15C (Scenic Roads) shall be held in conjunction with those held by the Tree Warden acting under MGL c. 87 (Shade Trees). Consent to an action by the Planning Board shall not be construed as consent by the Tree Warden or vice versa. A Planning Board decision shall contain a condition that no work shall take place until all applicable provisions of MGL c. 87 (Shade Trees) have been complied with.

F. Emergency repair. This article shall not apply when the Tree Warden acts in an emergency in accordance with law.

§ 158-10. Considerations when acting on applications.

In acting on applications concerning designated scenic roads, the Planning Board shall take into consideration the following:

- A. Preservation of natural resources.
- B. Preservation of historic resources.
- C. Scenic and aesthetic characteristics.
- D. Environmental values.
- E. Public safety.
- F. Local residential traffic patterns and overall traffic volume and congestion.
- G. Compensatory actions proposed, such as tree and wall replacement.
- H. Functional importance and urgency of repair, maintenance, reconstruction or paving.
- I. Additional evidence contributed by abutters, town agencies and other interested parties.
- J. Existence or absence of reasonable alternatives.
- K. Other planning information.

§ 158-11. Driveways.

A. At a minimum, driveways shall be consistent with Wayland regulations for residential driveways and curb cuts and shall comply with this article.

B. Only one driveway cut per lot onto any designated scenic road shall be allowed. A new driveway onto a designated scenic road shall not exceed 12 feet in width.

C. Stone wall sections to be removed for a driveway shall not exceed the driveway width by more than two feet.

D. No tree with a trunk exceeding eight inches in diameter four feet above the ground or cluster of trees within six feet of one another with trunks six inches in diameter four feet above the ground shall be removed for a driveway unless the curb cut cannot be safely located elsewhere.

§ 158-12. Enforcement; violations and penalties.

A. Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within any designated scenic road will require an immediate filing as detailed above, and the applicant shall be required to restore features. This restoration shall consist of replacing the stone wall as necessary and replacing the trees cut on a square-inch-per-square-inch basis (combined area of the replacement trees measured one foot above ground level to equal total area of the original tree trunk as measured at the stump) at locations specified by the Planning Board.

B. Failure to comply with a duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures that the Planning Board deems necessary. Any decision not carried out within two years of issue shall be void and shall require a new filing. The Planning Board and the Tree Warden shall have the authority to enforce the provisions of this article.

C. Any violation of this article, MGL c. 40, § 15C (Scenic Roads) or a Planning Board decision issued under this article or MGL c. 40, § 15C shall be punishable by a fine not to exceed \$300.