

## **Chapter 157, Scenic Roads Bylaw Amendments**

### **Warrant Article for the 2021 Annual Town Meeting**

To see if the Town will vote to amend Chapter 157 of the Town's general bylaws, also known as the "Scenic Roads Bylaw", per the amendments described and appended below. The black, strike-through text indicates the sections of the bylaw that are to be changed, while the red text that follows provides the revisions as well as any supplemental additions.

The Town has a list of 31 designated scenic roads that were approved by residents at town meetings in 1987 and 1989. At the June 22, 2020 Annual Town Meeting, residents adopted the Scenic Roads Bylaw to create corresponding rules describing purpose, designation, procedures, notification, authorities, and enforcement regulations for these roads.

Massachusetts General Law Chapter 40, Section 15C, the Scenic Roads Act, which was enacted in 1973, allows the Town to designate scenic roads, and regulate public trees and historic stone walls within their right-of-way. Its purpose is to preserve the qualities and character of the Town's public ways by establishing rules for the cutting of trees or the alteration of stone walls within these designated rights-of-way's.

The Lancaster Scenic Roads Bylaw was reviewed and approved by the state Attorney General's (AG's) office on September 30, 2020 and it was posted for public notice on October 1, 2020. At that time, the bylaw went into effect.

The AG's Office provided comments during their review of the new bylaw. Their remarks primarily consisted of advice for administration of the regulation, but also identified areas where further clarification would be beneficial. None of the AG's remarks precluded the bylaw from being approved.

The amendments appended below, address most of the AG's concerns, but do not substantially alter the intent or purpose of the bylaw. The Lancaster Planning Board has reviewed and approved the proposed changes.

To understand the meaning and nature of these amendments, it is best to read them in the context of their place within the current regulation. A copy of the Scenic Roads Bylaw is available on the Town's web site or may be obtained through the Planning Department.

Adoption of these amendments will improve the clarity of the bylaw's provisions and procedures as recommended by the state Attorney General's office.

*The Lancaster Planning Board endorses adoption of these amendments.*

#### **§ 157-3. Designation of Scenic Roads.**

~~E. Town Meeting Approval. For each road, a majority vote at the Town Meeting is required for Scenic Road designation. Designations shall be effective as of the date of Town Meeting action. Any work on any portion of the right of way of a scenic road, which was not physically commenced at the time the road was designated, shall conform to these regulations.~~

E. Town Meeting Approval. For each road, a majority vote at the Town Meeting is required for Scenic Road designation. Any work in any portion of the right-of-way of a scenic road, which has not physically commenced at the time the road has been effectively designated, shall conform to these regulations.

F. Bylaw Amendment. For each scenic road designated at Town Meeting, the name of the road shall be added in its proper place to the alphabetic list provided in Section **157-4** below through amendment of this bylaw.

G. Effective Date of Designation. Each scenic road approved at Town Meeting, shall be effectively designated once its associated bylaw amendment has been reviewed and approved by the state Attorney General's Office, and posting or publishing requirements have been satisfied per MGL C. 40, S. 32.

## **§ 157-7. Applications and Fees.**

~~C. The Planning Board may waive the filing fee and costs and expenses for an application filed by a government agency, the Town departments, a not-for-profit conservation organization, or a non-governmental organization working the interest of the Town.~~

C. The Planning Board may waive the filing fee and costs and expenses for an application filed by a municipal, state, or federal government agency or entity, the Town departments, a not-for-profit conservation organization, or a non-governmental organization working in the interest of the Town.

D. The Planning Board shall seek the cooperation and compliance of any municipal, state, or federal agency or entity planning to perform work in areas protected by this bylaw, but shall not seek to regulate those activities in a manner that interferes with the mandated operation of those agencies or entities.

E. The Planning Director or their designee shall create and maintain an application form to request consent of the Planning Board for work proposed within Scenic Road areas as specified by this bylaw. The form shall be sufficiently detailed to provide the information requested in Section **157-8 A** below.

F. The Planning Department shall determine and collect a reasonable and appropriate fee to compensate for Town services or expenses typically required for processing the application.

## **§ 157-8. Procedures.**

### **B. Notification.**

~~1) The Planning Board and Tree Warden 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 seven days prior to the hearing. Copies of the notice shall be sent to the Select Board, Conservation Commission, Historical Commission, and the Tree Warden.~~

1) The Planning Board or the Tree Warden shall, as required by statute, give notice of a 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 seven days prior to the hearing.

a) If a hearing is held for the purpose of satisfying provisions of the Scenic Road Act, notice shall be given by the Planning Board as required by MGL C 40, S. 15C. Copies of the notice shall be sent to the Select Board, Conservation Commission, Historical Commission, and the Tree Warden.

b) In the event a joint hearing is held for the purposes of satisfying provisions of both the Scenic Road Act and the Shade Tree Act, notice shall be given by the Tree Warden as required by MGL C 40, S. 15C and MGL C. 87, S. 3. Copies of the notice shall be sent to the Select Board, Conservation Commission, Historical Commission, and the Planning Board.

## **§ 157-8. Procedures.**

### **B. Notification.**

~~4) Descriptions of the proposed work provided by the applicant in parts 1) a) and 1) b) of Section 7. A. above shall be used to compose the notice for advertising.~~

4) Descriptions of the proposed work provided by the applicant in parts 1) a) and 1) b) of Section **157-8 A** above shall be used to compose the notice for advertising.

5) At least 14 days before the hearing, the individual seeking approval shall give written notice, at their expense, by certified mail (postage prepaid), or by hand delivery to the applicant and all abutters. The mailing addresses of the abutters shall be obtained from the most recent applicable tax list provided by the Assessors Office. Abutters shall include owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall include a copy of the advertisement as well as the date of the hearing, if known. The notice to abutters shall include a copy of the application, or shall state where copies may be examined or obtained by abutters.

## **§ 157-10. Enforcement; Violations and penalties.**

~~B. With regard to public shade trees, Violators may be fined up to \$500 per violation per MGL Chapter 87, Section 6.~~

B. With regard to public shade trees, Violators may be fined up to \$500 per violation per MGL Chapter 87, Section 6 if the Tree Warden chooses to follow the provisions of the public shade tree statute for notification, public hearings, and approved actions rather than this bylaw.

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