

**ARTICLE X**

**HISTORIC STONE WALL PROTECTION AND PRESERVATION**

**§ 228-33 Purpose**

The intent of this ordinance is to create an incentive for property owners to preserve historic stone walls located in Lincoln since they are a cultural resource and help preserve the rural character of the Town.

**§ 228-33 Definitions**

(a) **Historic Stone Wall:** a vertical structure of aligned natural stone built before 1900, normally constructed to designate a property boundary or to separate agricultural activities within a farmstead. The stone wall must also be fifty (50') feet in length or longer, three (3') feet high or higher and be structurally maintained and free of weeds and other vegetation.

(b) **Fence Viewer:** The Director of Public Works, or his or her appointed designee as set forth in §C8-4 of the Lincoln Town Charter.

(c) **Owner:** shall mean all owners of an historic stone wall if it serves as a boundary marker between two properties.

**§ 228-34 Eligibility for Voluntary Historic Stone Wall Preservation Program**

(a) The owner of an eligible historic stone wall may apply, on a voluntary basis to the Fence Viewer for a certificate of appropriateness for his or her stone wall. The application must include documentation of the age of the wall including but not limited to:

(i) Recorded deeds that contain a reference to the stone wall that indicate when the wall was built.

(ii) Chain of title search which identifies the original/owner builder and what decade in which the stone wall was built.

(iii) Construction dates inscribed in the stones

(iv) Diaries, invoices and personal testimony

(v) The stone wall is associated with an historic structure.

(vi) Contiguity with an historic cemetery, with dates on the burial markers.

(vii) Construction material that are part of the wall that indicate the age of the stone wall and period of construction.

(viii) Coverage of a continuous coat of dry lichen over a major portion of the stone wall.

(b) Upon receipt of an application, the Fence Viewer shall first determine whether the stone wall meets the definition of an historic stone wall as set forth above. If the Fence Viewer determines that the stone wall meets definition of an historic stone wall, as set forth above, he or she shall issue certificate to the owner of the stone wall certifying its historic status.

#### **§ 228-35 Property Tax Exemption and Application**

Upon certification by the Fence Viewer that the stone wall is an historic stone wall, the owner thereof shall be eligible for a property tax exemption of FIVE THOUSAND (\$5,000.00) DOLLARS annually for the preservation and maintenance of the historic stone wall. The owner thereof shall apply for the exemption with the Tax Assessor by filling out a form prepared by the Tax Assessor for said exemption, as well presenting the certification by the Fence Viewer that the stone wall is an historic stone wall. Once applied for, the owner thereof shall not be required to renew the application on an annual basis.

#### **§ 228-36 Restrictive Covenant Required**

No historic stone wall may benefit from the provisions of this Chapter unless the owner of such historic stone wall shall grant to the Town of Lincoln a recorded restrictive covenant that the historic stone wall shall be retained in its current size, shape and state and be maintained in a manner in a manner which preserves the historic stone wall's character. The Tax Assessor shall record said covenant in the Land Evidence Records of the Town of Lincoln prior to approving the tax exemption as set forth above.

#### **§ 228-37 Forfeiture of Tax Exemption and Penalty for Non-Compliance**

(a) If the owner of the historic stone wall demolishes all or a part of the historic stone wall, or fails to maintain the stone wall so that the structural integrity is affected thereof, the owner shall forfeit the property tax exemption as set forth above. Upon forfeiture, subsequent payments shall be adjusted and billed upon the full value of the property without benefit or reference to the tax exemption. In addition thereof, the owner shall be liable for the amount of the exemption that should have been paid to the Town of Lincoln in property taxes from the date the exemption was granted to the time that the historic stone wall was either demolished

in whole or in part or failure to maintain affected the structural integrity of the wall.

(b) It shall be the duty of the Fence Viewer from time to time, as he or she deems appropriate, to inspect the certified historic stone walls to determine whether they have been demolished in whole or in part and whether the certified historic stone walls are structurally sound.

#### § 228-38 Alteration, Relocation, or Demolition

(a) Notwithstanding the provisions of this section, an owner may alter, relocate or demolish a certified historic stone wall that has received a property tax exemption, or any portion thereof, upon prior written approval of the Fence Viewer. The owner of a certified historic stone wall that has received a property tax exemption shall first apply to the Fence Viewer by submitting a specific plan containing details of the project, including but not limited to the reconstruction, demolition or relocation of the historic stone wall. The reconstruction or relocation of the historic stone wall must take into account the historic value of the stone wall, and employ appropriate repair methods. In addition to the above, the following conditions shall apply to any repair, alteration, relocation or demolition of an historic stone wall:

(b) If any application for a subdivision requires the alteration, relocation or demolition of an historic stone wall that has received a property tax exemption, Planning Board approval shall be required in addition to that of the Fence Viewer.

(c) The replacement of an historic stone wall at its original location shall be with the same materials and the same construction methods as the original historic stone wall, using as many of the original stones as possible.

(d) Cuts for driveways, roads, utility easements or fire lanes shall be of the minimum necessary length, and the end caps of the historic stone walls must be restored by using the same construction methods and materials as originally used.

(e) An historic stone walls in disrepair or neglected condition shall not be removed from its present location, but must be repaired or left as is. Any in situ reconstruction shall match that of the original historic stone wall, examples of which are a "dry wall" or "hidden cement."

(f) New stone walls must closely approximate the appearance of the adjoining historic stone wall with respect to coursing, native field stone, joint width and distribution of stones by size.

(g) The Fence Viewer shall only grant permission to demolish a certified historic stone wall that is receiving the property tax exemption for good cause shown. In the event that permission to demolish is approved by the Fence Viewer, the property tax exemption shall be void and rescinded upon the date of demolition thereof. It shall be the duty of the Fence Viewer to notify the Tax Assessor of the permission to demolish and the date of the demolition of the certified historic stone wall, and the Tax Assessor shall then record a notice in the Land Evidence Records of the Town of Lincoln that the property tax exemption for the certified historic stone wall is void and rescinded.

#### § 228-39 Administration

(a) The Tax Assessor shall provide the exemption set forth above pursuant to R.I.G.L. § 44-3-43

(b) The tax exemption shall be in an amount not exceeding FIVE THOUSAND (\$5,000.00) DOLLARS in valuation, and in the event that the historic stone wall is the boundary marker between two lots with separate owners, the exemption shall be pro-rated among said abutting property owners on an equal basis.

(c) Any applications for the tax exemption authorized by this chapter filed after April 15th of any year and subsequently approved by the Tax Assessor shall not be operative until the year succeeding said filing and the tax exemption shall become effective as of December 31<sup>st</sup> following the date of the filing.

<b>RESULT:</b>	<b>ADOPTED AS AMENDED [4 TO 1]</b>
<b>MOVER:</b>	Arthur Russo, Councilman
<b>SECONDER:</b>	John Flynn, Councilman
<b>AYES:</b>	James Jahnz, John Flynn, Arthur Russo, Kenneth Pichette
<b>NAYS:</b>	Keith Macksoud



100 Old River Road  
P.O. Box 100  
Lincoln, Rhode Island 02865

*Office Use Only*

Certification Granted

Certification Denied

Date: \_\_\_\_\_

**Application  
Historic Stone Wall Preservation  
Certification/Tax Exemption**

Date: \_\_\_\_\_

Owner Name: \_\_\_\_\_  
(Please list all owners of record)

Property Address: \_\_\_\_\_

Plat/Lot: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**§ 228-34 Eligibility for Voluntary Historic Stone Wall Preservation Program**

- (a) The owner of an eligible historic stone wall may apply, on a voluntary basis to the Fence Viewer for a certificate of appropriateness for his or her stone wall. The application must include documentation of the age of the wall including but not limited to:
- i. Recorded deeds that contain a reference to the stone wall that indicate when the wall was built
  - ii. Chain of title search which identifies the original owner/builder and what decade in which the stone wall was built
  - iii. Construction dates inscribed in the stones
  - iv. Diaries, invoices and personal testimony
  - v. The stone wall is associated with an historic structure
  - vi. Contiguity with an historic cemetery, with dates on the burial markers
  - vii. Construction materials that are part of the wall that indicate the age of the stone wall and period of construction
  - viii. Coverage of a continuous coat of dry lichen over a major portion of the stone wall

(b) Upon receipt of an application, the Fence Viewer shall first determine whether the stone wall meets the definition of an historic stone wall, as set forth above, he or she shall issue certificate to the owner of the stone wall certifying its historical status.

I/We \_\_\_\_\_ (all property owners)  
hereby state that I/We have read in its entirety Ordinance § 2011-12 (Historic Stone Wall Protection and Preservation) attached hereto and made part hereof and agree to be bound by its terms and conditions, the consideration for such terms and conditions referenced being the property tax exemption therein.  
Furthermore, it is acknowledged that in accordance with the above referenced ordinance, there will be restrictive covenants recorded in the land evidence records of the Town of Lincoln referencing my/our deed. This recording shall be done by the Tax Assessor prior to the granting of a tax exemption.

Signature: \_\_\_\_\_ (Date) \_\_\_\_\_ (Date)  
(All owners of record)

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Notary: \_\_\_\_\_ Expires: \_\_\_\_\_  
Signature Name