

**TOWN OF WASHINGTON
SCENIC ROADS ORDINANCE**

Town Ordinance # 1120
Enacted on October 6, 2003

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TOWN OF WASHINGTON SCENIC ROADS ORDINANCE

The Town of Washington hereby establishes this Scenic Road Ordinance pursuant to the provisions of Section 7-149a of the Connecticut General Statutes.

I. Purpose

The purpose of this Ordinance is to help protect Washington's rural character and beauty by allowing the Town to preserve its scenic rural highways, consistent with the requirements of safe travel. Washington's rural highways are an important part of its history, and an essential component of its character.

II. Authority to designate scenic roads

The authority to designate a Town highway or any portion of a Town highway as a Scenic Road is hereby delegated to the Planning Commission, to be exercised according to the procedures in this Ordinance.

III. Designation Criteria

Prior to designating a Town highway or any portion thereof as a Scenic Road, the Planning Commission shall first find that the highway or the proposed portion thereof is free of intensive commercial development and intensive vehicular traffic. In addition, the Planning Commission must find that the highway or the proposed portion thereof meets at least one of the following criteria:

- a. It is unpaved.
- b. It is bordered by mature trees or stonewalls.
- c. The traveled portion is no more than twenty (20) feet in width.
- d. It offers scenic views.
- e. It blends naturally into the surrounding terrain.
- f. It parallels or crosses over brooks, streams, lakes or ponds.

IV. Application and Rescission Procedures

A. Application Requirements

An application to the Planning Commission for designation of any Town highway or portion thereof as a Scenic Road must include the following:

1. The name, address, and telephone number of the applicant. The applicant may be a person or other legal entity, such as a corporation or partnership.
2. The name of the highway and the total length of the portion to be designated as a Scenic Road.

3. A brief description of the highway and a statement as to how the highway or proposed portion thereof meets the criteria specified in Section III of this Ordinance.
4. A map showing lot boundaries, the amount of lot frontage, and the names of all owners of every lot located along any portion of the Town highway proposed for designation as a Scenic Road.
5. A statement or statements of approval of the proposed Scenic Road designation, signed by the owners of a majority of the lot frontage abutting the portion of the highway proposed for such dedication. Each statement of approval shall include the name, address, and the amount of relevant lot frontage of each signing owner. Each such statement shall also contain the name, address, and signature of the person who circulated the statement. All such statements must be filed with the Town Clerk.
6. An application fee of \$150.00.

B. Appeal of Designation

An appeal of any designation of a Scenic Road by the Planning Commission may be made to the extent permitted by State law.

C. Hearings, Notice, and Decisions

1. The Planning Commission shall conduct a public hearing on any application for scenic road designation within 65 days after the date of its first regularly scheduled meeting following the day of submission of the application.
2. The Commission shall prepare a notice of the public hearing and shall publish the notice at least once in a newspaper having a general circulation within the Town of Washington. Such publication shall be made no later than ten (10) days before the date of the hearing, with the ten days being inclusive of the date of publication but not the date of the hearing. The Commission shall also make a copy of the notice available to the applicant at least three business days before the date of publication. The applicant shall mail copies of the notice by certified mail, return receipt requested, to the owners of all of the property having frontage along the portion of the Town highway proposed for designation as a Scenic Road. Such mailing shall be made no later than ten days before the date of the hearing, with the ten days being inclusive of the date of publication but not the date of the hearing. The applicant must submit proof of such mailing (official certified mail receipts and/or signed return acknowledgments) to the Commission at or before the commencement of the public hearing.

3. The Commission shall make its decision on the application within 35 days after the close of the public hearing. The Commission may approve the application as submitted or may designate a lesser portion of the highway as a Scenic Road, provided that such lesser portion otherwise meets the criteria set forth in this Ordinance. If the Commission fails to act on the application within the time frames set forth in this subsection, the application shall be deemed to be denied in its entirety; however, the applicant shall be entitled to resubmit the application immediately to the Commission with no additional filing fee. If an application is denied by a vote of the Commission, including the failure of a motion to approve the application, no application involving the same highway or portion of the highway may be submitted to or considered or approved by the Commission for a period of two years from the date of publication of the decision.
4. The Commission shall publish a notice of any decision it renders on the application in a newspaper having a general circulation within the Town of Washington. Such notice shall be published no later than fifteen (15) days after the date of the decision. If the Commission approves the application, it shall notify the Board of Selectmen, the Town Road Foreman, and the Town Tree Warden of the designation within fifteen (15) days after the date of the decision, specifying the scenic characteristics for which the Commission has determined that protection is warranted. The failure to send such notice to the Board of Selectmen, the Town Road Foreman, or the Town Tree Warden within such period shall not affect the validity of the designation.

D. Rescission of Designation

A Scenic Road designation may be rescinded following the procedures for designation as set forth in this Ordinance, including the requirement that the owners of a majority of lot frontage along the affected portion of the Town highway approve of the rescission.

V. Maintenance, Alterations and Reconstruction of Scenic Roads

A. Maintenance

1. The Town shall maintain Scenic Roads in good repair and in passable condition by routine highway maintenance. However, such routine maintenance shall be performed in a manner to protect and maintain the scenic characteristics of the highway to the extent feasible.
2. For the purposes of this Ordinance, the term “routine maintenance” shall include:

- a. Winter road maintenance.
- b. Road cleaning.
- c. Removal of dead, seriously diseased or damaged trees and branches that pose a threat to public safety, in accordance with the requirements of Section 23-59 of the Connecticut General Statutes; trimming branches to allow school buses, emergency vehicles, and other vehicles to pass; trimming and removal of brush and removal of boulders and other obstacles that encroach on the traveled portion of the road or obstruct site lines required for safety; necessary cutting and trimming of brush or trees for utility lines, in accordance with Section 16-234 of the Connecticut General Statutes; and trimming of brush to enhance and protect scenic views, stone walls, mature trees, and other scenic characteristics of the scenic road as set forth in its designation.
- d. The correction of road drainage problems, including, but not limited to, the removal of trees, shrubs, silt and other material from existing drainage structures and the replacement of cross culverts, curtain drains and cross culvert drainage pipes.
- e. Graveling (or its equivalent) and grading to smooth the surface of unpaved roads, provided that the nature and characteristics of the material used on the road surface remain the same or the surface is restored to a prior passable condition using natural materials such as crushed rock or native stone or equivalent.
- f. Repaving, retreatment, or repair of existing paved surfaces that does not require the widening of the traveled path or the removal of trees or stone walls or changing the grade or configuration. For purposes of this subsection, "widening of the traveled path," means extending the traveled path beyond its width at the prior paving. Periodic edging out and creating unpaved shoulders shall be considered routine maintenance.
- g. The installation of reflectors, warning, speed limit and other roadway signs shall be kept to a safe minimum number. No sign shall be displayed identifying the road as a Scenic Road.

B. Alterations and Improvements

Alterations or improvements shall include changes to any of the following: the width of the traveled path of the right-of-way; the alignment, grade, or elevation of the highway; the nature and characteristics of the material used on the highway surface; the removal or destruction of stone walls or portions thereof; the removal of visible boulders; the removal or cutting of trees, shrubs, or other vegetation within the untraveled portion of the road; and the replacement of bridges, guard posts, rails and other engineered structures. No such alterations or improvements shall be allowed except as expressly provided in this Ordinance. In addition, any such alterations or improvements shall be planned and executed so as to do the least possible damage to the physical characteristics of the Scenic Road. Materials that blend into and compliment the scenic characteristics

of the highway, including, but not necessarily limited to, stone and timber, shall be used for bridges, guide rails, guideposts and other engineered structures.

1. Alterations to correct potential hazards to safety.
 - a. If the Board of Selectmen finds that a potential hazard to safety may exist on a Scenic Road and that such hazard requires the alteration or improvement of the Scenic Road (other than emergency repairs, as defined in Section V.C of this Ordinance), the Board may prepare a written proposal to make such alterations or improvements. Upon preparing any such proposal, the Board shall file the proposal with the Town Clerk. It shall thereafter publish a notice in a newspaper having a general circulation in the Town of Washington, stating that such proposal has been filed with the Town Clerk, indicating the Scenic Highway to be affected, and generally stating the work to be performed. No later than the date of publication of such notice, the Board shall provide a copy of the notice to the chairmen of the Planning Commission, the Zoning Commission, the Inland Wetlands Commission, and the Conservation Commission, and shall mail a copy of the notice, by certified mail, return receipt requested, to the owners of all land abutting the Scenic Road to be affected.
 - b. If no written objection is filed with the Board of Selectmen within thirty-five (35) days after the publication of the notice, the alterations or improvements may proceed. If an objection is made, a hearing shall be held by the Board of Selectmen to consider the objections further. Notice of the hearing shall be published in a newspaper having a general circulation in the Town of Washington at least ten (10) days before the date of the hearing, with the ten days being inclusive of the day of publication but not the day of the hearing. The notice shall indicate the date, time and place of the hearing and shall state that the hearing is to be held to discuss the potential alteration or improvement of the Scenic Road to be affected. The Board shall also mail a copy of the notice, no later than the date of publication, to each person who filed an objection. At the hearing, those in attendance shall have an opportunity to review and comment on the proposed alterations and improvements.
 - c. Following the hearing, the Board of Selectmen may decide to correct the potential hazard in the manner planned or in any manner that will cause less disturbance of the Scenic Road and will still satisfactorily correct the hazard.

2. Alterations and improvements to accommodate changed conditions.

If a Scenic Road should develop a high level of traffic congestion that results in unreasonable delays for emergency vehicles, or if the physical condition of the Scenic Road deteriorates to the extent that the Town cannot maintain it in good and sufficient repair without alteration or improvement, the Board of Selectmen may propose the alteration or improvement of the Scenic Road. Such proposals shall follow the same procedures as set forth in Section V.B.1 of this Ordinance, except that copies of the initial notice shall be provided to the Town's Emergency Services and the Road Foreman in addition to all of the other recipients specified.

C. Emergency Repairs

Emergency repairs and reconstruction may be made as needed, but shall be made in a manner consistent with the scenic characteristics of the road to the extent feasible.

STATEMENT IN SUPPORT OF APPROVAL OF SCENIC ROAD

To the Town Clerk and Planning Commission of the Town of Washington:

As an owner of property having frontage on a Town highway that has been proposed for Scenic Road status under the provisions of the Town of Washington's Scenic Road Ordinance, I hereby state my support for that designation, and I further state that the information provided below is true to the best of my knowledge and belief:

Name: _____

Residence Address: _____

Telephone Number: _____

Information regarding property owned on proposed Scenic Road:

Street Address: _____

Assessor's Lot No.: _____

Length of frontage along proposed Scenic Road (in feet): _____

Basis for knowledge of length of frontage (e.g., deed reference, survey,

Subdivision map, etc.) _____

Signature of Owner

Circulator:

Name _____

Mailing Address _____

Telephone _____