

**ARTICLE V. SCENIC ROADS**

**Sec. 86-141. Short title of article.**

This article shall be known and may be cited as the "Town of Coventry Scenic Roads Ordinance."

(Ord. No. 170, § 1, 10-15-90)

**Sec. 86-142. Eligibility of roads for designation; criteria.**

Pursuant to the provisions of G.S. § 7-149a the town shall provide for the designation of town roads (highways), or portions thereof, as scenic roads and shall maintain the scenic nature of highways or portions thereof so designated. To be considered as a scenic road, the highway or portion of the highway to be designated a scenic road shall be at least 500 feet in length, be free of existing or potential (based on the town plan of development designations for commercial and industrial land uses) intensive commercial development, shall be free of intensive vehicular traffic and shall meet at least one of the following criteria:

- (1) It is unpaved.
- (2) It is bordered by mature trees or stone walls along a majority of its length.
- (3) The traveled portion is no more than 20 feet wide along a majority of its length.
- (4) It offers scenic views or vistas such that persons other than residents living on the road routinely walk, drive or ride on this road to experience such views.
- (5) It blends naturally into the unique or scenic surrounding terrain, such as ledge outcrops, steep hills, protected forests, wetland areas, etc.
- (6) It parallels or crosses over brooks, streams, lakes or ponds that are regarded as scenic as in subsection (4) of this section.

(Ord. No. 170, § 2, 10-15-90)

**Sec. 86-143. Authority to designate roads delegated to town planning and zoning commission; additional criteria for consideration.**

The authority to designate a town road (highway) or any portion of any town road (highway) as a scenic road pursuant to G.S. § 7-149a is hereby delegated to the planning and zoning commission of the town. In addition to the criteria cited in section 86-142, the planning and zoning commission shall consider the nature of vehicular and pedestrian traffic and accident history on the subject road and other roads in the vicinity, the plan of development roadway classifications for the subject road and other roads in the vicinity and the overall protection of the public's health and safety. Roads designated collector or local streets in the plan of development are eligible for the scenic road designation. All proposed scenic roads shall be referred to the town police department for a traffic report to be received prior to the public hearing provided for in section 86-145(a).

(Ord. No. 170, § 3, 10-15-90)

**Sec. 86-144. Application for designation; contents.**

Where a town highway or portion thereof is to be considered for designation as a scenic road, a completed application form, to be available in the planning office, and applicable portions of the assessor's maps showing the proposed length of the scenic road and all of the abutting property owners shall be submitted to the planning and zoning commission. Such application shall include a statement justifying the proposed scenic road designation, a list of the names and addresses of all property owners (based on the current assessor's records) with frontage abutting the proposed length of the scenic road and an area for the abutting property owners to sign the application indicating their approval of the proposed scenic road designation and the length of frontage abutting such proposed scenic road which they own. A public hearing to consider a scenic road designation shall not be held unless the owners of a majority of the frontage abutting the designated portion of the highway have indicated their approval of the scenic road designation.

(Ord. No. 170, § 4, 10-15-90)

**Sec. 86-145. Public hearing; notice; decision; rescinding of designation; appeal.**

(a) Where a town highway or portion thereof is to be considered for designation as a scenic road, the planning and zoning commission shall hold a public hearing on the proposal. Hearing notices and deadlines shall be in accordance with the provisions of G.S. § 8-7d, except that the planning and zoning commission shall have the right to designate an annual deadline for the submission of new scenic road applications and, if it does so, the hearing shall commence within 65 days of such deadline. The planning and zoning commission shall have the right to conduct joint hearings on scenic road applications. Notification of the public hearing shall be sent by mail by the planning and zoning commission to the town council and the owners of record abutting the portion of the highway which is proposed to be designated as a scenic road. The applicant shall also cause notice of the time and place of the public hearing to be published in a newspaper having a substantial circulation in the town no more than 15 days and no less than three days before the date of such public hearing.

(b) Following the public hearing, the planning and zoning commission shall vote on the proposed designation pursuant to the time limits set out in G.S. § 8-7d. A copy of any decision shall be sent by certified mail to the person who submitted the application within 15 days after such decision is rendered. The planning and zoning commission shall publish notice of its decision in a newspaper having a general circulation in the town. In any case in which such notice is not published within the 15-day period after a decision has been rendered, the person who submitted the application may provide for the publication of such notice within ten days thereafter. The designation shall become effective upon such date as the planning and zoning commission shall establish. Any or all of the proposed length of highway may be designated as a scenic road, except that no highway or portion thereof may be so designated as a scenic road unless, in accordance with G.S. § 7-149a, the owners of a majority of the frontage abutting that designated portion of the highway agree to the designation by filing a written statement of approval with the town clerk on or before the date on which the designation is to become effective.

(c) The scenic road designation may be rescinded by the planning and zoning commission using the same procedures specified in subsections (a) and (b) of this section upon application containing the written concurrence of the owners of a majority of the road frontage abutting the portion of the highway whose designation as a scenic road is sought to be rescinded.

(d) Any person aggrieved by a designation of or refusal to designate a highway or portion of a highway as a scenic road by the planning and zoning commission pursuant to this article may appeal such designation or refusal in the manner and utilizing the same standards of review provided for appeals from the decisions of the planning and zoning commission under G.S. § 8-8.

(Ord. No. 170, § 5, 10-15-90)

**Sec. 86-146. Alterations and improvements.**

(a) *Petitions.* Any person, corporation and/or town agency may petition the town council to alter or improve a scenic road designated under this article.

(b) *Procedure.* Except for work authorized by subsections (c) or (d) of this section, any highway which has been designated as a scenic road under this article may be altered or improved including, but not limited to, widening of the right-of-way or traveled portion of the highway, paving, changing the grade, straightening, removing of stone walls or removing of mature trees, only upon the vote of two-thirds of the town council. The town council shall not act until it has referred the matter to the planning and zoning commission and received a report from the commission. Prior to submitting its report to the town council, the planning and zoning commission shall hold a public hearing, notice of which shall be sent to the owners of record abutting the scenic road. The council shall record in its minutes the reasons for the alterations or improvements should such alterations or improvements be authorized.

(c) *Emergency, routine and minor maintenance.* Emergency, routine and minor maintenance on any highway which has been designated as a scenic road under this article shall be continued by the town without the necessity of a council vote, referral to the planning and zoning commission or public hearing. Such work shall include the removal of dead, diseased, damaged or dangerous trees and branches of trees which present a clear, imminent danger to the public; trimming of the tree branches that encroach on the traveled portion of the highway below the height needed to allow school buses, emergency vehicles and town road maintenance vehicles to pass; trimming or removal of brush and removal of boulders or other obstacles that encroach on the traveled portion of the road; necessary trimming for utility lines; trimming of brush to enhance and protect scenic views, stone walls and mature trees; correction of drainage problems; striping, graveling, filling, retreatment including, but not limited to, overlay paving and chipsealing and repair of existing roadway surfaces; grading; snowplowing; sanding; and emergency repairs to such road in the case of a natural disaster making it impassable or unsafe for public travel.

(d) *Authorized acts.* Any highway which has been designated as a scenic road under this article may be altered or improved including, but not limited to, widening of the right-of-way or traveled portion of the highway, paving, changing the grade, removal of the stone walls,

ledge or boulders, installation of drainage facilities, straightening or removal of vegetation, including mature trees, provided the planning and zoning commission determines that the alterations or improvements are necessary to protect and promote public safety in conjunction with the approval of a new driveway, a new highway or a new subdivision or other land use development that is directly accessed by the subject scenic road and is under the planning and zoning commission's regulatory jurisdiction. Any such alteration or improvement to a scenic road shall not be approved unless a public hearing has been held on the subject project, notice of which shall be sent to owners of record abutting the scenic road. Any alterations or improvements authorized by this section shall be the minimum necessary to address safety issues associated with the new driveway, highway or land use development and any approved alteration or improvement shall be designed to minimize impacts on the scenic characteristics of the subject scenic road. No alteration or improvement shall be approved by the planning and zoning commission until potential alternative solutions have been considered thoroughly. Stone wall relocations and reconstructions, the planting of new trees, shrubs or flowers, the installation of underground utilities and other mitigating measures may be required by the planning and zoning commission in conjunction with its authorization of alterations or improvements to scenic roads.

(e) *Interference with agricultural operations.* Scenic road designations shall in no way interfere with normal agricultural operations as determined by the state commissioner of agriculture.

(Ord. No. 170, § 6, 10-15-90)

**Sec. 86-147. Preservation of scenic characteristics; considerations.**

Any alterations and improvements of a designated scenic road shall be carried out so as to preserve to the highest degree possible the scenic characteristics of the highway. Any proposed alteration to a scenic road shall be reviewed by the appropriate authority with due regard to the following:

- (1) *Alternatives.* A thorough review of alternative solutions to minimize impacts on scenic characteristics.
- (2) *Speed limits.* Scenic values often are correlated with lower speeds. Speed limits on scenic roads shall be posted and enforced.
- (3) *Curves.* Scenic values often are correlated with the existence of curves which allow a constant unfolding of new and changing views. Curves shall not be eliminated unless clearly necessary for traffic safety.
- (4) *Grades.* Hills and valleys often are correlated with scenic values. They shall not be destroyed by cuts and fills unless clearly necessary for traffic safety.
- (5) *Widths.* A narrow road often is correlated with scenic beauty. Designated highways should not be widened unless clearly necessary for traffic safety.
- (6) *Side slopes.* Existing steepness of side slopes often is preferable to reduction of gradient by extensive removal of soil and rock. This is especially true where the slopes are fully stabilized and where they are rich with existing ground cover, shrubs and trees.

- (7) *Vistas.* Vistas of distant landscapes shall be preserved by suitable vegetation management techniques.
- (8) *Utility lines.* Wherever possible, utility lines should be placed underground. Where they are overhead, the utility companies should be encouraged to cooperate by implementing suitable vegetation management techniques which preserve trees, wildflowers and shrubs.
- (9) *Vegetation.* Vegetation on the side of the road shall be managed in such a way as to preserve wildflowers, shrubs of ornamental and wildlife values and trees. Overarching, isolated trees and the canopy of a closed forest can have extremely high scenic value.
- (10) *Billboards; sand, gravel and salt piles; refuse disposal; and other unsightly structures or situations.* Billboards; sand, gravel and salt piles; refuse disposal; and other unsightly structures or situations shall be forbidden. Where possible, scenic and preservation easements should be acquired from adjacent owners to ensure the continuance of natural relief, desirable features, and scenic and historic values in the public interest.

(Ord. No. 170, § 7, 10-15-90)

**Sec. 86-148. Enforcement; penalty for violation of article.**

This article shall be enforced by the planning and zoning commission, acting through its designated enforcement officials. Violation of this article shall be subject to a fine as provided in section 1-10 for each day that such violation continues, and such other legal remedies as may be available to the planning and zoning commission. If enforcement is sought through the courts and judgment is rendered for the town, the court, in the event of a willful violation, shall award to the town as costs a reasonable attorney's fee.

(Ord. No. 170, § 8, 10-15-90)

**Sec. 86-149. Article a statement of public policy and guide of town employee conduct.**

This article is a statement of the public policy of the town and is intended to guide the conduct of all employees of the town.

(Ord. No. 170, § 9, 10-15-90)