



NEW HAMPSHIRE

SCENIC & CULTURAL BYWAYS COUNCIL

RULES OF PROCEDURE

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1 - AUTHORITY

The New Hampshire Scenic & Cultural Byways Council (NHSCBC) was established under RSA 238 §19-24 and operates under this State authorization as well as within the framework established under the Federal Intermodal Surface Transportation Equity Act (ISTEA), the Transportation Equity Act for the 21st Century (TEA-21) and the Safe, Accountable, Flexible Transportation Equity Act – Legacy for Users (SAFTEA-LU), legislation which created the Federal Highway Administration’s National Scenic Byways Program.

2 - DUTIES

The duties of the New Hampshire Scenic & Cultural Byways Council are:

1. Encourage towns and municipalities to designate scenic and cultural byways within their jurisdictions and to petition the Council for the inclusion of these byways into the New Hampshire scenic and cultural byways system.
2. Such inclusion shall enable the municipality to participate in Federal funding that may be available under Section 1047, Scenic Byways Program, of the Intermodal Surface Transportation Efficiency Act of 1991.
3. The Council may also propose a statewide network of connecting highways. Proposed connecting highways shall not be designated as scenic and cultural byways as defined and controlled under section 1047, Scenic Byways Program, of the Intermodal Surface Transportation Efficiency Act of 1991.
4. Develop the process for byways nomination and nomination criteria. Advise and consult with municipalities regarding the process of recommending municipal roads for inclusion in the scenic and cultural byways system.
5. Encourage and assist in fostering public awareness, understanding, and participation in the objectives and functions of the scenic and cultural byways system.
6. Provide municipalities with tools and ideas for enhancement and protection of the scenic and cultural byways.
7. Review the byway system and report biennially to the governor and the general court upon the effectiveness of this subdivision and make recommendations. The reports shall indicate the status of all state and town designations and include a fiscal accounting of all moneys received and expended.
8. De-designate a scenic and cultural byway at the request of the municipality or if its character changes in such a way that it no longer meets the criteria under which it was designated.

3 - MEMBERSHIP

3.1 - Appointment of Members

The NHSCBC shall consist of the following 15 members:

- 9 members appointed by the Governor including:
 - 1 person representing regional planning;
 - 3 persons representing municipalities;
 - 1 person representing tourist and recreation interests;
 - 1 person representing forests and lands;
 - 1 person representing the utilities;
 - 1 person representing the Outdoor Advertising Association of NH; and
 - 1 person representing the highway construction industry.
- The commissioner of the Department of Transportation, or designee.
- The commissioner of the Department of Resources and Economic Development, or designee.
- The director of the Office of Energy and Planning, or designee.
- The director of the Division of Historic Resources, or designee.
- 1 member of the house, appointed by the speaker of the house.
- 1 member of the senate, appointed by the senate president.

Appointed Council members must present their appointment letter to the Chair and the NH State Scenic Byways Coordinator within thirty days of receipt. The letter will be filed with the program records.

Except as provided in this section, no state employee or member of any state commission, federal employee, or member of any federal commission shall be eligible for membership on the Council.

At the first Council meeting of each calendar year, a list shall be prepared of the Council members indicating the interest represented and the year appointed. This list shall be forwarded to the Governor, along with any request to appoint in order to fill an existing or anticipated vacancy.

Appointed members may be removed at any time by the appointing authority.

3.2 - Appointment Terms

The terms of the members appointed by the Governor shall be for three years, except that he/she shall appoint the initial members for terms of one, two and three years.

3.3 - Election of Officers

The Council shall choose its chairman annually from among its members. The chair shall serve for no more than two consecutive one-year terms.

3.4 – Officers and Duties

The officers of the Council shall be a Chair and a Vice-Chair.

Chair: The chair shall:

- Call Council meetings as necessary
- Preside over all Council meetings
- Call to order meetings of the Council
- Preserve order and decorum
- State all questions submitted for a vote and announce the result

The Chair shall serve for no more than two consecutive one-year terms.

Vice-Chair: In the event that the Chair is unable to perform the proscribed duties due to absence or recusal, the Vice-Chair shall serve as Council Chair.

The Council shall utilize the staff resources of the New Hampshire Department of Transportation as Council staff to operate and facilitate the ongoing operations of the New Hampshire Scenic and Cultural Byways Program.

3.5 – Absences

A member unable to attend a scheduled Council meeting shall advise the Chair and the State Coordinator at least three business days prior to the meeting. Two absences without prior notification will result in the presumed resignation of that member, and the Chair will take the appropriate steps to seek a new member.

3.6 – Resignation

A member who intends to resign from the Council prior to the expiration of their respective term shall submit a signed letter announcing their intended resignation, reason for resigning and the effective date of the resignation to the Chair with a copy to the New Hampshire Scenic Byways State Coordinator. For those nine members appointed by the Governor, the Chair shall then forward a copy of the resignation letter to the Governor with a request to appoint a replacement Council member. For the other members, the Chair shall then forward a copy of the resignation letter to the Commissioner or Director of the represented state agency or the Speaker of the House or Senate President as appropriate.

3.7 – Conflict of Interest

No member of the NHSCBC shall vote on any issue before the Council in which he or she has any vested financial interest or other real or perceived conflicting interest. In situations where Council members have such interest, they shall disclose the conflict to the Council and abstain from voting and discussion of any action related to the byway. In the event that a member of the Council fails to disclose the conflicting interest or refuses to refrain from voting and discussing the issue, the Council shall vote on whether the matter at hand represents a conflict of interest, and an affirmative vote shall result in the conflicted Council member's vote rendered void on the conflicted issues.

4 - MEETINGS OF MEMBERS

4.1 - Regular Meetings

The Council shall meet in person annually, and as otherwise appropriate. The second Wednesday in June is the Annual Meeting date.

At the first Council meeting of each calendar year, a list shall be prepared of the Council members indicating the interest represented and the year appointed. This list shall be forwarded to the Governor, along with any request to appoint in order to fill an existing or anticipated vacancy.

4.2 - Special Meetings

Special meetings may be called by the Chair, State Coordinator or at the request of at least eight Council members.

4.3 - Required Public Notice

Notice of all meetings will be sent to the nine regional planning commissions and the Council members at least ten business days prior to the meeting date and include the time, date and place of meeting, along with a request to post the information on their websites. Notice shall also be posted on the NHDOT website.

4.4 - Quorum

A quorum for conducting Council business shall be eight members of the Council, or a majority of those appointed, whichever is less, in attendance shall constitute a quorum.

4.5 - Meeting Formats

The Council shall conduct business meetings in-person and in compliance with the requirements of RSA 91-A: *Access to Governmental Records & Meetings* (commonly referred to as the NH Right-to-Know Law). However, the Council recognizes that there may be instances where 1 or more members of the Council are unable to attend in person, but will still bring critical information or perspective to the agenda items identified. In those instances, the Council will facilitate participation by those members by electronic or other means in compliance with the requirements of 91-A: 2(III).

Any action required by the Council shall be determined by a vote to affirm or deny the proposed action based on a voting member's motion and second. The motion made and seconded will be repeated to those assembled by the Chair, and any discussion on the motion will be invited – first by members of the Council, and then by members of the public. At the conclusion of the discussion, a voice vote will be called. Should any question of the vote totals arise from the voice vote, a roll call vote shall occur – the results of which shall be included in the meeting minutes.

4.6 – Order of Meetings

Meetings will be conducted in the following order:

1. Chair calls the meeting to order
2. Chair conducts roll call of members present (a sign-in sheet shall be circulated)
3. Chair or State Coordinator introduces any guests
4. A vote to approve the previous meeting's minutes
5. Chair reads the meeting agenda and notes any changes
6. Chair inquires if there is any public comment
7. Council addresses unfinished business
8. Council addresses new business
9. Announcements
10. Adjournment

4.7 – Minutes

All Council meetings shall have official minutes taken in accordance with the provisions of RSA 91-A. Minutes will be available to interested members of the public, identified as being 'draft' until such time as the Council convenes a meeting and votes to approve them. All minutes will include:

1. The date, time and location of the meeting;
2. A list of Council members in attendance and the organizations represented;
3. A list of other attendees and the organizations represented;
4. The time at which the Chair called the meeting to order;
5. An accounting of all business conducted by the Council and details of discussions held during the meeting;
6. Identification of the members making and seconding motions, details of the motion and subsequent discussions and the results of the vote on the motions made;
7. The time at which the meeting is adjourned.

5 - PROGRAM REPORTING REQUIREMENTS

By December 30 of odd numbered years, the NH State Scenic Byways Coordinator will prepare a biennial program status report, in draft format, on the status of the New Hampshire Scenic & Cultural Byways Program for the review and concurrence of Council members. The report shall:

- Identify the total miles of designated scenic/cultural byways in New Hampshire;
- Identify the number of miles for both state and federally-designated byways;
- Provide details on any activity undertaken on any designated byways in the two year period the report covers;
- Detail the amount of federal funds awarded during the two year reporting period;
- Provide an overview of the activity of the Council;
- Highlight any upcoming federal legislation of interest;
- Identify the status of program funds; and
- Grant insight into the programmatic intent for the upcoming biennium.

When the Council has reviewed and concurred in the draft report, the NH State Scenic Byways Coordinator will finalize the biennial program status report and transmit it to the Governor and General Court.

6 - RECORDS

The New Hampshire Department of Transportation will maintain records by year to include:

- Membership
- Minutes
- Submitted applications
- Funding
- Biennial program status reports to the Governor and General Court

7 - AMENDMENT OF RULES OF PROCEDURE

These rules of procedure may be amended by the Council at any duly-noticed regular or special meeting by a quorum, as defined in Section 4.4 above, provided that a notice setting forth the proposed amendment(s) has been sent to each Council member at least ten business days prior to the vote. Any member may initiate an amendment.

8 – NEW HAMPSHIRE STATE SCENIC BYWAYS

8.1 – State Designation

The Council shall designate scenic and cultural byways based on criteria which include, but shall not be limited to, the following:

- Possesses significant visible natural or cultural features along its border such as agricultural lands, farms, significant architectural attributes, historic sites, town and city centers, museums, cottage industries, panoramic views, vistas of marshes, shorelines or forests, or notable geological or other natural features.
- Accessible to natural and cultural features such as cultural facilities, historic sites, town and city centers, trails, lakes, rivers, streams, mountains, the seacoast, bike paths, agricultural land, parks, or protected lands that are open to the public, etc.
- Conforms to and does not detract from the landscape.
- Meets safety standards for the particular traffic encouraged.
- Is free from intensive commercial development and obstructive signage that would detract from the principal reason for its designation.

Designation of a state or local road or highway as a scenic and cultural byway shall not affect the operation, maintenance and expansion of existing public utility lines and facilities, or be construed to require any public utility to install any of its lines or facilities underground.

Under no circumstances shall a local scenic and cultural byway be designated without a public hearing conducted by the municipalities in the area.

Nominations shall demonstrate local, private, and public support, and be reviewed to assess any traffic or other problems that may accrue to the designation as a scenic and cultural byway and propose a method to ensure the preservation and maintenance of the qualities of the scenic and cultural byway on which the nomination is based. Local support includes letters of endorsement from the selectboards, planning departments and conservation groups stating their willingness to participate in forming a local scenic byway committee.

8.2 – State Designation Process

The Council shall review applications from interested groups or communities for designation as a New Hampshire State Scenic and Cultural Byway.

When reviewing applications for State designation status, the Council shall follow this process:

- All completed applications will be submitted to the NH State Scenic Byways Coordinator.
- The NH State Scenic Byways Coordinator will notify Council members when an application is received.

- Each application will be reviewed by NHDOT staff to ensure compliance with State and Federal laws, regulations and program guidance.

At the next regularly scheduled meeting, the Council will review and determine whether the byway meets primary criteria (outlined in Section 8.1) to qualify as a designated NH State Scenic and Cultural Byway. The NH State Scenic Byways Coordinator will follow-up in writing with applicants regarding actions taken on their respective applications. All responses to applicants will be copied to the Council members and the program files.

8.3 – State De-Designation Process

There are two methods for the de-designation of a State scenic byway:

1. Request from a Municipality located along the designated route:

Municipalities may request that any section of byway designated in their community be de-designated. Such requests must be made in writing and sent to the attention of the NH State Scenic Byways Coordinator. The letter must:

- Identify the reason for the request.
- Include a copy of the meeting minutes documenting the official action by the municipality's governing body regarding the requested de-designation.
- Be signed by the governing body of the community requesting de-designation of the byway.

The Council, at its next meeting, will consider the request for de-designation as it relates to the criteria in RSA 238:22.

2. Request by the Council:

As part of the Biennial Report development process, the NH State Scenic Byways Coordinator shall review the status of all state designated byways. Particular attention shall be paid to those byways:

- **Lacking an approved Corridor Management Plan:**

All designated byways shall have developed and adopted a management plan for the respective corridor that at a minimum accomplishes the following:

- Identification & discussion of the intrinsic qualities of the byway
 - Discuss protection, enhancement and promotion of those intrinsic qualities
- Current infrastructure conditions and maintenance plans for the corridor
- Current types and volumes of traffic and safety concerns along the corridor
- Identification of visitor amenities, needs and expectations along the corridor
- Byway promotional plans

Additionally, the 14 components for CMPs identifies by FHWA should be identified and discussed. The 14 components may be found here:

<http://www.gpo.gov/fdsys/pkg/FR-1995-05-18/html/95-12211.htm>

- **Lacking a functional corridor management entity:**

All designated byways must have a designated body that at a minimum:

- Has representation from all of the communities and interests along the designated byway.
- Meets at least annually to discuss the byway and review current and future plans.
- Has a designated point of contact that has been identified to the NH State Scenic Byways Coordinator.

It is the intent of the NH Scenic & Cultural Byways Council that these CMEs are responsible for the development, adoption; revision and implementation of adopted CMPs for the designated corridors, and will serve as the central point of communication for the designated corridors to all interested parties regarding the designated byway.

- **No longer meeting the criteria designation was originally based on:**

This criterion is met when – in the judgment of the NH Scenic & Cultural Byways Council – the intrinsic qualities designation was based on either do not exist or have been appreciably diminished, and there is no CMP in placed to discuss corrective action.

Byways meeting with any of the above criteria the will be compiled in a list and presented to the Council for review, discussion and any action related to the de-designation of a byway.

The first time that a byway appears on the list, the Council may identify a course of action that will allow issues related to the byway's listing as a de-designation candidate to be addressed, and direct the NH State Scenic Byways Coordinator to communicate this action plan to the managing entity and attempt to work with the entity to address the deficiency over the biennium. The focus for these byways will be removal from the de-designation candidate list.

The second consecutive time that a designated byway appears on the de-designation candidate list, the Council shall de-designate the byway.

For those byways lacking a functional management entity, the Council - through the NH State Scenic Byways Coordinator – shall attempt to make contact with the byway sponsors. In the event that no sponsors are identified, interested or able to manage the byway - the Council shall act to de-designate the candidate byway.

9 – National Scenic Byways Program

Within the U.S. Department of Transportation, the Federal Highway Administration (FHWA) has lead responsibility for the National Scenic Byways Program. The Program is a grassroots, collaborative effort established to help recognize, preserve and enhance selected roads throughout the United States.

9.1 - National Scenic Byways Program Designation Process

Anyone may nominate a road for possible designation as a National Scenic Byway or an All-American Road. However, the byway must have a corridor management plan and the nomination must be submitted through the NH State Scenic Byways Coordinator.

The Secretary of Transportation recognizes certain roads as National Scenic Byways or All-American Roads based on their archeological, cultural, historic, natural, recreational, and scenic qualities.

To be designated as a National Scenic Byway, a road must possess at least one of the six intrinsic qualities. The significance of the features contributing to the distinctive characteristics of the corridor's intrinsic qualities must be recognized throughout the multi-State region.

To receive an All-American Road designation, a road must possess multiple intrinsic qualities that are nationally significant and contain one-of-a-kind features that do not exist elsewhere. The road or highway must also be considered a "destination unto itself." That is, it must provide an exceptional traveling experience so recognized by travelers that they would make a drive along the highway a primary reason for their trip.

The full criteria for designation are included in FHWA's Interim Policy for the National Scenic Byway Program published in the Federal Register on May 18, 1995, which may be found online here: <http://www.gpo.gov/fdsys/pkg/FR-1995-05-18/html/95-12211.htm>.

9.2 – National Scenic Byways Program De-Designation Process

The Secretary of Transportation may de-designate any roads or highways designated as National Scenic Byways or All-American Roads if they no longer possess the intrinsic qualities nor meet the criteria which supported their designation.

A road or highway will be considered for de-designation when it is determined that the local and/or State commitments described in a corridor management plan have not been met sufficiently to retain an adequate level of intrinsic quality to merit designation.

When a byway has been designated for more than one intrinsic quality, the diminishment of any one of the qualities could result in de-designation of the byway as a National Scenic Byway or All-American Road.

It shall be the State's responsibility to assure that the intrinsic qualities of the National Scenic Byways and All-American Roads are being properly maintained in accordance with the corridor management plan.

When it is determined that the intrinsic qualities of a National Scenic Byway or All-American Road have not been maintained sufficiently to retain its designation, the State and/or Federal agency will be notified of such finding and allowed 90 days for corrective actions before the Secretary may begin formal de-designation.