

## **19A NCAC 02E .1001 DEFINITIONS**

This Section establishes the Department's rules for the administration, designation and removal of the North Carolina Scenic Byways Program. For purposes of this Section, the following definitions shall apply:

- (1) "Board" means North Carolina Board of Transportation.
- (2) "Byway" means a scenic highway.
- (3) "Designate" means a process for approving a road or a system of roads to the state system of Scenic Byways.
- (4) "D.O.H." means Division of Highways of the Department of Transportation.
- (5) "Interested Party" means any proponent or opponent of the proposal for the designation or removal of the Byway.
- (6) "Intrinsic Qualities/Resources" means unusual, exceptional, or distinctive scenic, recreational, historical, educational, scientific, geological, natural, wildlife, cultural, or ethnic features.
- (7) "Merit" means applications with all facts substantiated and considered suitable for further consideration.
- (8) "N.C.D.O.T./Department" means North Carolina Department of Transportation.
- (9) "Program" means the Scenic Byways Program and its associated administrative tasks.
- (10) "Promote" means to foster and encourage the advancement of the Scenic Byways Program.
- (11) "Removal" means the process of removing a Byway or a section of a byway from the state system of Scenic Byways.
- (12) "Report" means a summary of information prepared by the Roadside Environmental Unit.
- (13) "Roadside Environmental Unit" means a unit of the Department of Transportation.
- (14) "Scenic Byway/Highway" means a defined road or system of roads, designated by the Board of Transportation, having distinct natural, cultural, historical, and aesthetic qualities.
- (15) "Scenic Byway/Highway Management Plan" means strategic goals specifically outlined to preserve or enhance the scenic integrity along a state highway or state byway.
- (16) "Scenic Value" means a measurement of the aesthetic quality of an area determined through a visual inventory conducted by the Roadside Environmental Unit.
- (17) "T.I.P." means the Transportation Improvement Program.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

## **19A NCAC 02E .1002 PURPOSE**

- (a) The Scenic Byway/Highway system shall be established to provide the public with the opportunity to travel on a system of roads featuring the intrinsic qualities of the State within the existing highway system.
- (b) The Scenic Byway/Highway program is intended to identify not create scenic byways/highways.
- (c) The program and rules prescribed to sustain the integrity and safety of the scenic byway/highway system shall be incorporated into N.C.D.O.T. planning and maintenance operations.
- (d) All lawfully erected outdoor advertising signs adjacent to a Scenic Byway/Highway designated as a part of the interstate or federal-aid primary highway system as of June 1, 1991, or any highway which is or becomes a part of the National Highway System shall become nonconforming signs and shall be allowed to remain until such time as funds become available for purchase.
- (e) The implementation of the system provides an alternative for safe travel, encourages tourism and economic growth, and promotes intrinsic qualities/resources along the highway system.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

#### 19A NCAC 02E .1003 ADMINISTRATION OF PROGRAM

(a) The responsibilities and execution of duties of implementing and carrying out the goals of the Scenic Byway/Highway program are vested in the Division of Highways (DOH) of the NCDOT. The DOH is authorized:

- (1) to plan, design, and develop the Scenic Byway/Highway System and Program;
- (2) to develop and make recommendations, including routes to be designated or removed, to the Board of Transportation on the organization and operation of the Scenic Byway/Highway Program;
- (3) to support the protection of historical, cultural, natural and aesthetic resources in areas adjacent to the highway.

(b) Other administrative duties which shall be conducted by the Department are:

- (1) to compose and provide application forms for proposed Scenic Byway/Highway locations and for removal of Scenic Byway/Highway locations from the system;
- (2) to coordinate and manage Scenic Byway/Highway system signing;
- (3) to annually review and file a report by February 1 each year with the Secretary of Transportation on the existing Scenic Byways/Highways in the system and those highways offered for both designation and removal in the system;
- (4) to oversee interaction between the Department of Transportation and public/private entities interested in the development or management of the State Byway/Highway system;
- (5) to develop and make available to the public interpretive information about the Scenic Byways and Highways.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

#### 19A NCAC 02E .1004 DESIGNATION CRITERIA

(a) The following criteria shall be required for a route to be included in the Scenic Byway/Highway system:

- (1) highway design which preserves and protects the natural beauty or scenery of the area;
- (2) location on an existing highway or roadway having legal public access;
- (3) minimum consecutive length of one mile;
- (4) adequate land area to accommodate safe enjoyment of scenic attractions;
- (5) evidence of strong local support for the designation established by the proponent of the designation, which includes but is not limited to petitions, letters, and newspaper articles;
- (6) significant natural or aesthetic features visible from and adjacent to the roadway. Such features include but are not limited to agricultural lands, vistas of marshes, shorelines, forests, and other areas of dense vegetation or notable geographic characteristics;
- (7) intrinsic qualities such as but not limited to historical, cultural, or recreational resources in the area.

(b) The NCDOT shall determine that development of the designated area shall not detract from the scenic natural character and visual quality of the route. The Department shall ensure the route is compatible with recreational, aesthetic, and environmental management needs of the area.

(c) Designation of a highway as a Scenic Byway/Highway shall not significantly interfere with the operation or maintenance of existing public utility lines and facilities.

(d) Designation of a highway as a Scenic Byway/Highway shall not be construed to require any modification in local and use regulations or restrictions, require any change in commercial or agricultural activities, or affect future highway rehabilitation, development, or the need to maintain or improve the roads.

(e) Preference shall be given to a Scenic Byway/Highway with existing protected areas such as national forests or federal or state park land near or adjacent to the proposed route.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

### **19A NCAC 02E .1005 DESIGNATION PROCESS**

The process for designation as a Scenic Byway shall be as follows:

- (1) A non-profit organization, which includes but shall not be limited to a county commission or the governing body of any municipality, may submit an application to the Roadside Environmental Unit of the Department of Transportation with proper Scenic Byway/Highway identification on the envelope;
- (2) Roadside Environmental Unit shall review the application and prepare a written report, which includes findings on the designation criteria set in 19A NCAC 02E .1004 and a recommendation on whether the proposal should be adopted or rejected;
- (3) Proposed routes deemed to have merit based on criteria in 19A NCAC 02E .1004 shall be submitted by the DOH staff to the Board of Transportation for approval or denial;
- (4) At the request of any interested party, the Citizens Participation Unit of the N.C.D.O.T. shall hold a public hearing to consider any proposal recommended for approval;
- (5) If a hearing is requested the proponents of the Byway shall place a legal notice in at least one newspaper in the municipality nearest the proposed Scenic Byway/Highway and in three successive issues. The notice shall contain the date, time, and location of the hearing and a summary of the proposed designation. Proponents of the Byway/Highway shall be responsible for the cost of the legal notice. In addition to the hearing, written comments shall be accepted by the Roadside Environmental Unit for 30 days from the publication of the hearing notice. If no hearing is requested, written comments may be submitted and shall be accepted for 90 days from the date of application. A request for public hearing shall be made within 60 days from the receipt of the application. The hearing shall be held no sooner than 14 days following the last day of the legal notice and no later than 30 days following the last day of the legal notice;
- (6) The Department shall notify the proponent in writing of the Board of Transportation's approval or denial of the proposal;
- (7) The Board may designate any route or section of a route at anytime so long as the Board meets the criteria in 19A NCAC 02E .1004.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995. **19A NCAC 02E .1006 APPLICATION FOR DESIGNATION** (a) The following items shall be included for a Scenic Byway application, but is not limited to such items, to be considered: (1) The proponent's name, address, telephone number, and name, address, and telephone number of the organization represented if applicable; (2) A written description of the section of highway to be designated including intrinsic qualities of significance; (3) Photographic slides of the area indicating intrinsic qualities of significance; (4) County maps with proposed route marked clearly; (5) Copies of zoning ordinances applicable to the route or a written list of existing land-use areas for unzoned areas; (6) Documentation of notice given to local governments adjacent to proposed route; (7) For unzoned areas, a written list of commercial or industrial activities adjacent to or within 800 feet of the pavement of the proposed route; and (8) An optional Scenic Byway Management Plan may be submitted with an application. (b) All applications shall be received by the Roadside Environmental Unit, N.C. DOT, PO Box 25201, Raleigh, NC 27611, no later than August 31 of each year. Incomplete applications shall not be accepted and will be returned to the proponent. (c) Application and all

application materials shall become the property of the North Carolina Department of Transportation.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

#### **19A NCAC 02E .1007 REMOVAL PROCESS**

(a) A route or section of a route may be removed if its character has changed such that it meets the criteria for removal as specified in G.S. 136-18(31) and taking into consideration that it no longer meets the criteria as set out in 19A NCAC 02E .1004 .

(b) The process of removal shall be as follows:

(1) A non-profit organization, which includes but shall not be limited to a county commission or the governing body of any municipality, may submit an application for removal to the Roadside Environmental Unit of the Department of Transportation with proper Scenic Byway/Highway identification label on the envelope;

(2) The Roadside Environmental Unit shall review application, prepare a report incorporating a study of the scenic value of the submitted route or section of route and submit proposals deemed to have merit as specified in 19A NCAC 02E .1004 to the Board of Transportation;

(3) At the request of any interested party, the Citizens Participation Unit of the N.C.D.O.T. shall hold a public hearing to consider any proposal recommended for removal;

(4) If a hearing is requested the proponent of the Byway removal shall place a legal notice in at least one newspaper in the municipality nearest the route or section of a route proposed for removal and in three successive issues. The notice shall contain the date, time, and location of the hearing and a summary of the removal proposal. Proponents of the removal shall be responsible for the cost of the legal notice. In addition to the hearing, written comments shall be accepted by the Roadside Environmental Unit for 30 days from the publication of the hearing notice. If no hearing is requested, written comments may be submitted and shall be accepted for 90 days from the date of application. A request for public hearing shall be made within 60 days from the receipt of the application. The hearing shall be held no sooner than 14 days following the last day of the legal notice and no later than 30 days following the last day of the legal notice;

(5) The Board of Transportation shall approve or deny application; and

(6) The Department shall notify the applicant of approval or denial.

(c) The Board may remove any route or section of a route from the Scenic Byway System at anytime so long as the Board meets the criteria for removal outlined in these Rules and in G.S. 136-18.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

#### **19A NCAC 02E .1008 REMOVAL APPLICATION**

(a) The following shall be included in a Scenic Byway removal application, but is not limited to such items, to be considered.

(1) Characteristic which has changed such that it no longer meets criteria for designation;

(2) Documentation of current zoning, ordinances, and other land-use controls;

(3) Documentation of public notification of removal to relative parties and legal notice of public notification;

(4) Written route or section of route description, including elements supporting the proposal to remove;

(5) Written applicant information including name, address, and telephone number;

(6) Photographic slides of characteristics supporting proposal to remove;

(7) County maps with route or section of route marked.

(b) Application must be received by the Roadside Environmental Unit, N.C.D.O.T., P.O. Box 25201, Raleigh, NC 27611 at least six months prior to the annual Board meeting set aside for Scenic Byway review. Incomplete applications shall not be accepted and will be returned to the proponent.

(c) All applications and application materials shall become property of the North Carolina Department of Transportation.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.

#### **19A NCAC 02E .1009 BOARD OF TRANSPORTATION EVALUATION**

(a) The Board of Transportation shall annually evaluate the Scenic Byway/Highway Program at its March meeting.

(b) The review and evaluation shall include, but not be limited to, the following:

(1) An examination of funding for the program;

(2) A determination of suitability of those proposed routes for designation and removal. A request for further information on the proposed route may be made by the Board. The suitability of the route shall be decided at a later date.

(c) The annual meeting date, place, and time shall be determined by the Board of Transportation and shall be consistent within each calendar year and with the annual Transportation Improvement Program (TIP) public hearings.

(d) The Board of Transportation retains the authority to designate or remove a route or a section of a route from the Scenic Byway/Highway system at any time. Prior to making its decision, the DOH shall prepare a recommendation to the Board.

History Note: Authority G.S. 136-18(5); 136-122 through 136-125; 136-129.2; 143B-348; Eff. March 1, 1995.