

Chapter Trans 202

WISCONSIN SCENIC BYWAYS PROGRAM

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Trans 202.01 Purpose and scope. (1) As required by s. 84.106, Stats., this chapter establishes a Wisconsin scenic byways program. This chapter establishes the criteria and procedures to be used by the secretary to designate scenic byways.

(2) The purpose of this chapter is to identify, designate, promote and preserve a system of highways recognized for their outstanding scenic views and ability to offer travelers an exceptional travel experience. These byway corridors shall highlight the best scenic qualities along with the natural, historic, archeological, cultural and recreational opportunities available in Wisconsin. Program participation may increase roadway corridor recognition, increase marketing potential, promote community consensus building, aid in preservation of resources, and increase eligibility for federal or state funding for certain byway related projects along the corridor.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; CR 16-045: am. Register October 2020 No. 778, eff. 11-1-20.

Trans 202.02 Definitions. The words and phrases defined in ss. 84.106 and 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Action items" mean the specific activities, procedures, controls, operational practices and administrative strategies that are undertaken as part of a corridor management plan to maintain and promote the scenic, historic, recreational, cultural, archeological and natural qualities of the scenic byway.

(2) "All-American Road" means a public highway that has been designated by the federal government as satisfying national scenic byway criteria and the additional criteria and requirements for designation as an "All-American Road."

Note: A road should first be designated as a state scenic byway before national designation may be pursued. The criteria are set forth in the interim policy for the National Scenic Byway Program published in the Federal Register on May 18, 1995, at page 26759 of Vol. 60, No. 96.

(3) "Corridor" means the highway right-of-way and the area adjacent to and extending along the right-of-way that is visible from the roadway of a designated Wisconsin scenic byway.

(4) "Corridor management plan" or "CMP" means a written document authored by the local government sponsor that serves as the coordinating plan by which the scenic, historical, recreational, cultural, archeological and natural qualities on a designated byway are maintained and promoted.

(5) "Great River Road" has the meaning provided in s. 84.107, Stats.

(6) "Historic resources" mean the distinctive, visible sites or structures that demonstrate an important part of Wisconsin history that can help to educate viewers and help foster an appreciation of the past.

(7) "Local government" means a county, town, village, city or tribal government.

(8) "Local government sponsor" means a local government through whose jurisdiction a proposed Wisconsin scenic byway passes or a local government that is adjacent to a proposed scenic byway and that formally initiates the application process.

(9) "National Scenic Byway" means a public highway designated pursuant to 23 USC 162 as satisfying the federal criteria for a national scenic byway.

Note: A road should first be designated as a state scenic byway before national designation may be pursued. The criteria are set forth in the interim policy for the National Scenic Byways Program published in the Federal Register on May 18, 1995 at page 26759 of Vol. 60, No. 96.

(10) "Scenic byways advisory committee" or "SBAC" means the committee appointed by the secretary to review applications from local government sponsors and to recommend to the secretary whether an application for designation of a state trunk highway as a scenic byway should be approved.

(10m) "Scenic byway sign" means an official sign designating a scenic byway as set forth in the manual adopted by the department, the Wisconsin Manual on Uniform Traffic Control Devices (MUTCD) under s. 84.02 (4) (e), Stats.

(11) "Scenic qualities" are a combination of natural and manmade features that give remarkable character to the visual landscape, are striking in appearance and provide a pleasing and memorable experience to travelers.

(12) "Sign" has the meaning provided in s. 84.30 (2) (j), Stats.

(13) "Traffic control device" means a sign, marking or traffic control signal erected or placed within the right of way of a public highway by the government unit having jurisdiction over the highway for the purpose of guiding, warning or regulating traffic upon the highway.

(14) "Wisconsin scenic byway" or "scenic byway" means any combination of contiguous segments of state and federal highways, connecting highways, county highways or local roads that have special scenic qualities or historic resources and may in addition have special recreational, cultural, archeological, or natural qualities for which they are designated as a scenic byway by the secretary pursuant to s. 84.106, Stats.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; CR 16-045: am. (intro.), cr. (10m), am. (14) Register October 2020 No. 778, eff. 11-1-20; correction in (10m), (14) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 202.03 Previously designated scenic byways. (1) Any roadway previously designated as a scenic, historic, or recreational route or some combination thereof, either by legislative or by administrative action, may also be designated as a Wisconsin scenic byway upon satisfaction of the administrative process for the Wisconsin scenic byways program pursuant to s. 84.106, Stats.

(2) The Great River Road was designated by the secretary as a Wisconsin scenic byway under s. 84.106, Stats., on June 24, 1999. The provisions of ss. Trans 202.05, except ss. Trans

202.05 (3) (b), 202.06 and 202.07 do not apply to the Great River Road.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05.

Trans 202.04 Scenic byways advisory committee membership. (1) The SBAC shall consist of all of the following:

(a) One representative from each of the following state agencies nominated by the respective agency and appointed by the secretary:

1. Wisconsin department of tourism.
2. Wisconsin department of safety and professional services.
3. Wisconsin department of natural resources.
4. Wisconsin state historical society.

(b) Four members at large appointed by the secretary.

(c) The chairpersons of the senate and assembly standing committees having jurisdiction over transportation matters as determined by the speaker of the assembly and the president of the senate.

(2) The state agency representatives and the members at large shall be appointed by the secretary in staggered 4-year terms.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; correction in (1) (a) 2. made under s. 13.92 (4) (b) 6., Stats., Register January 2012 No. 673.

Trans 202.05 Qualifications for scenic byway designation. (1) The majority of the route proposed as a Wisconsin scenic byway shall have scenic qualities or historic resources, which are unique to the route. Scenic qualities or characteristics shall be as continuous as possible throughout the corridor. The majority of historic resources shall be eligible for, or listed on the National Register of Historic Places, be numerous, be visible, and have a setting or character that is complementary to the historic resources.

(2) The route shall be 30 miles in length at a minimum and, where feasible, connect to major highways at both ends of the route system.

(3) (a) A proposed scenic byway route does not include a section of highway that traverses a business area unless the appropriate local government specifically includes the area in the proposed scenic byway route by means of a formal resolution. In unincorporated areas where county zoning is in effect, a resolution of the county board is also required. The proposed route shall be as continuous as possible.

(b) Each local government through which the Great River Road passes shall be given an opportunity to exclude business areas from the Great River Road Wisconsin scenic byway route. A request to exclude a business area shall be submitted to the department in writing, shall contain a map identifying the business area or business areas to be excluded and shall contain a copy of a resolution passed by the local government's governing body supporting the request. In unincorporated areas where county zoning is in effect, the request shall also contain a resolution from the county board of the appropriate county supporting the request. A request under this paragraph shall be received by the department no later than 2 years from March 1, 2005.

(c) For purposes of this subsection, "business area" means any portion of a highway where there are contiguous abutting parcels of land zoned for business, industrial or commercial activities or unzoned and used for business, industrial or commercial activities as defined in s. 84.30 (2) (d), Stats.

(4) Any of the following are not eligible for scenic byway designation:

- (a) Interstate highways.
- (b) Alleys.
- (c) Bike paths, sidewalks, hiking trails, and footpaths.

(d) ATV and snowmobile trails, except that roadways designated as all-terrain vehicle routes, as defined in s. 23.33 (1) (c), Stats., or snowmobile routes, as defined in s. 350.01 (16), Stats., may be included in a scenic byway.

(e) Rustic roads designated under s. 83.42, Stats.

(f) Railroad rights of way.

(g) Any other facility not intended for use by motor vehicles.

(5) Scenic, historical, archeological, cultural, recreational and natural features and characteristics may be considered complementary to the scenic features or historic resources of the proposed route. They may be documented and submitted as part of the application.

(6) The proposed route may not be scheduled or anticipated for major improvements that would significantly diminish its scenic characteristics. If there are scheduled or anticipated major improvements, the SBAC may consider the application after the improvements are made or after the improvements are well defined in approved plans.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05.; CR 16-045: am. (2), r. and recr. (4) Register October 2020 No. 778, eff. 11-1-20; correction in (4) (d) made under ss. 13.92 (4) (b) 12. and 35.17, Stats., correction in (4) (e), (g) made under s. 35.17, Stats. Register October 2020 No. 778.

Trans 202.06 Application procedure. (1) Application to have a route designated as a Wisconsin scenic byway is voluntary. Interested parties seeking designation may include residents, organizations and local governments. The responsibility for identifying a suitable route for scenic byway designation rests with the aforementioned groups.

(2) There shall be at least one local government sponsor who initiates the application procedure.

(3) The department shall design the application form and determine the completeness of responses from local government sponsors. The department may require preliminary information from the local government sponsor to determine if the proposed route has a reasonable potential for being designated as a state scenic byway. Resolutions from local governments abutting the proposed route may be required.

Note: The application form may be obtained upon request by writing to the Department of Transportation, Division of Transportation Investment Management, Bureau of Planning, Room 901, P. O. Box 7913, Madison, WI 53707-7913.

(4) A corridor management plan shall be prepared by the local government sponsor after the route's potential has been confirmed by the SBAC, but before final designation takes place.

(5) The SBAC shall evaluate the application materials and make a recommendation to the secretary on the approval or denial of the request to designate the proposed route as a scenic byway.

(6) The secretary shall make the decision to approve or deny an application for designation of the proposed route as a scenic byway.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05.

Trans 202.07 Reviewing and monitoring of Wisconsin scenic byways. The department shall review the approved CMP of a designated scenic byway on a periodic basis to insure that the local government sponsor has implemented the action steps in its CMP. The department shall notify the local government sponsor of the results of the review. In the case of uncompleted action items, the department and local government sponsor shall coordinate to develop a schedule and timeline to implement the remaining action items or to amend the remaining action items in a mutually agreeable manner. Failure to address the uncompleted action items in a timely manner may result in withdrawal of scenic byway designation.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05.

Trans 202.08 Jurisdiction and authority. Wisconsin scenic byway designation, as approved by the secretary, except as otherwise provided in this chapter, may not affect in any man-

ner the authority and responsibilities of the department, any county or any local government over their respective segments of a scenic byway including responsibility for maintenance, safety, improvements or regulation of traffic.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; CR 16-045: r. and recr. Register October 2020 No. 778, eff. 11-1-20.

Trans 202.09 Maintaining and improving a state scenic byway. Designation as a Wisconsin scenic byway may not:

- (1) Prohibit or affect future roadway design or construction.
- (2) Change the existing state or federal classification of the highway.
- (3) Be a factor in department or local government decisions on whether or not a highway improvement project is necessary or appropriate for the designated highway.
- (4) Be considered in determining local transportation aids paid under s. 86.30, Stats.
- (5) Affect enforcement of state or local traffic laws.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; CR 16-045: r. and recr. Register October 2020 No. 778, eff. 11-1-20; (1) to (5) renumbered from (a) to (e) under s. 13.92 (4) (b) 1., Stats., and correction in (4) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 202.10 Traffic control devices and route markings. (1) The following units of government shall furnish, erect, replace and maintain signs marking scenic byways in accordance with the manual adopted by the department under s. 84.02(4) (e), Stats.:

- (a) The department with respect to state trunk highways under its jurisdiction.
- (b) A local government with respect to any highway under their maintenance not described in par. (a), including connecting highways.

Note: Section 84.106 (3), Stats., requires a local government to provide for all costs associated with signing those segments of a scenic byway or a highway under its maintenance including connecting highways. The manual adopted by the department is the Wisconsin Manual on Uniform Traffic Control Devices (MUTCD) which may be found online at <http://wisconsindot.gov/Pages/doing-business/local-gov/traffic-ops/manuals-and-standards/wmutcd/wmutcd.aspx>.

- (2) The scenic byways marking signs may be placed on existing information or highway identification sign posts but may not be placed on any regulatory or warning sign posts.
- (3) All traffic control devices shall be erected and maintained in accordance with chs. 84, 86 and 349, Stats., and ch. Trans 200.
- (4) Scenic byways signing shall be removed on highways that are no longer designated as scenic byways.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; CR 16-045: r. and recr. (1) Register October 2020 No. 778, eff. 11-1-20; correction in (1) (intro.) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 202.11 Outdoor advertising. Highways designated by the secretary as scenic byways pursuant to s. 84.106, Stats., are subject to all applicable state laws and regulations and local ordinances regarding outdoor advertising signs. Highways designated as scenic byways shall also conform to s. Trans 201.23.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05.

Trans 202.12 National scenic byways program.

State trunk highways designated as Wisconsin scenic byways may, upon satisfaction of the federal guidelines and recommendation by the scenic byways advisory committee, be nominated by the secretary for designation and inclusion in the national scenic byways program as a National Scenic Byway or All-American Road. A local government may be responsible for supplying additional information or photos as needed for the national application.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05.

Trans 202.13 Modification or withdrawal of Wisconsin scenic byways designation.

(1) Every 10 years following the date of official notification of designation, local units of government through which the route passes shall have the opportunity to re-evaluate the designated route and to determine if they wish to modify the route due to changes in land use or other extenuating circumstances. The local unit of government having zoning authority over the scenic byway corridor shall notify the department in writing, pass a resolution and submit a map indicating the proposed change to the designated route. In unincorporated areas where county zoning is in effect, the request shall also contain a resolution from the county board of the appropriate county supporting the request. The department may require the local government sponsor to coordinate the submission of requests for modification of the scenic byway route. Requests under this subsection shall be received by the department no later than 12 months from the 10-year anniversary date. The SBAC shall review the proposed route modifications and make recommendations to the secretary. Modifications become effective upon approval of the secretary. If the department receives no notification under this subsection that a modification is being requested, the designated route shall remain unchanged for another 10 year period.

(2) Designation of a state trunk highway as a scenic byway may be withdrawn at any time after resolution by 2/3 of the local government sponsors and with the approval of the SBAC and the secretary. There shall be at least one public hearing by a local government sponsor before such a removal.

(3) The SBAC may recommend to the secretary that a scenic byway designation for a particular route be rescinded if the route no longer possesses the scenic or historic character of the route originally qualifying it for designation due to overdevelopment, the presence of some other visual detractor, the failure to adequately implement the corridor management plan, or if substantial modifications to the route have taken place under sub. (1). The department may request that the SBAC review and recommend whether a scenic byway designation for a particular route should be rescinded. If the SBAC recommends that a scenic byway designation for a route be rescinded, the department shall hold a public hearing on the removal. After the public hearing is held, the designation as a scenic byway for the route may be withdrawn upon approval of the secretary.

History: CR 04-057: cr. Register February 2005 No. 590, eff. 3-1-05; CR 16-045: am. (3), Register October 2020 No. 778, eff. 11-1-20.