

ARTICLE I
Sidewalk Maintenance
[Adopted 5-14-1990¹]

§ 137-1. Snow and ice removal. [Amended 2-28-1994]

- A. Winter maintenance required. The owner, agent of the owner or the occupant of any building or land bordering upon any street, square or public place within the town where there is a sidewalk shall cause to be removed therefrom any and all snow, sleet and ice within a period of 24 hours after the cessation of the snow, sleet or rainfall; and, whenever any such sidewalk or any part thereof shall be covered with ice, the owner, agent of the owner or the occupant of the building or land adjacent thereto shall, within the space of two hours after sunrise, cause such sidewalk to be made safe and convenient by removing the ice therefrom or by covering the same with sand or other suitable substance.
- B. Property owners' exemption for town-maintained walks. The provisions of this section shall not apply to owners, agents or occupants of buildings or land bordering sidewalks for which the Town of Simsbury has, by agreement, assumed the responsibility for removal of snow and ice or for covering the same with sand or other suitable substance to make them safe and convenient.
- C. No person, firm or corporation shall plow any snow or ice from any private property across any town street or highway, nor shall any person, firm or corporation place or cause to be placed any snow or ice from any private property upon a town street or highway.
- D. Enforcement provisions. It shall be the duty of the police force, under the direction of the Chief of Police, to see that the foregoing provisions relating to snow and ice are strictly complied with; and it shall be the duty of the Chief of Police to report promptly all cases of neglect to the offending party, whose duty it shall be forthwith to cause all walks so reported as being neglected to be properly cleaned or protected.
- E. Fine for noncompliance. Persons who shall violate any of the provisions of this section or refuse or neglect to comply with the same after notification shall be guilty of a misdemeanor and shall be fined the sum of \$90 for each offense and shall also be liable for the costs incurred by the town to remove snow and/or ice and sand the walk. All costs shall be a lien on the property until paid, as per the provisions of Connecticut General Statutes Section 7-148(c)(6)(C).

§ 137-2. Repair or replacement requirements.

The Board of Selectmen, when in its opinion a sidewalk is in need of repair or replacement, is hereby authorized, by giving notice by certified mail to the owner at his last known address, to order the owner of the land fronting on any street or highway to repair or replace the sidewalk in front of said property and within such time as the Board of Selectmen may prescribe. Said notice shall contain a description of the needed repairs. When the owner of such land shall neglect or refuse to repair or replace any such sidewalk within the time and in the manner ordered by the

1. Editor's Note: This ordinance also repealed former Art. I, Sidewalk Maintenance, adopted 5-2-1960, as amended.

Board of Selectmen as above provided, the Board of Selectmen may proceed to have said repairs or replacement made at the expense of the property owner. The expense of said replacement or repair shall be addressed as a benefit against the owner of the property adjoining such sidewalk and shall be a lien upon such property in accordance with the provisions of Connecticut General Statutes Sections 7-139 and 7-140, as the same may be amended from time to time.

§ 137-3. Town repair or replacement. [Amended 1-9-2017]

When continuous sidewalks fronting properties with different owners need replacement or resurfacing, the Board of Selectmen may undertake such work as part of the Town's maintenance or capital replacement work.

§ 137-4. Statutory liability provisions adopted.

The provisions of Connecticut General Statutes Section 7-163a, as the same may be amended from time to time, are hereby adopted.

ARTICLE II
Highway Excavations
[Adopted 1-8-1990]

§ 137-5. Permit required.

No person, firm or corporation, including public utility companies, shall excavate within or under any portion of any town highway without first obtaining a permit therefor from the chief executive officer of the Town of Simsbury or his designee. The chief executive officer may, from time to time, designate another official of the town to act as his designee for the purposes provided in this Article. Permits shall be obtained and all construction and restoration shall be in accordance with the requirements of the Highway Right-of-Way Permit Program, as the same may be amended from time to time, a copy of which is available from the Simsbury Public Works Department.

§ 137-6. Bond and insurance required.

The chief executive officer or his designee shall require a bond, either in cash or with surety, in form and amount satisfactory to and approved by him, to guarantee to the Town of Simsbury the performance by the permittee of his obligation to complete the permitted activities and to restore or reconstruct the disturbed portion of the highway or the drainage system. A certificate of insurance shall be submitted for contractors' liability for the coverage types and amounts required by the Simsbury Public Works Department.

§ 137-7. Grant of permit.

The chief executive officer or his designee shall grant such permit upon the posting of a bond and a certificate of insurance as hereinbefore provided.

§ 137-8. Penalties for offenses.

Any person who violates any provision of this Article shall be fined not more than \$90.

ARTICLE III
Scenic Roads
[Adopted 1-28-1991²]

§ 137-9. Purpose.

The scenic and rural roads of the Town of Simsbury are irreplaceable resources. It is the purpose of this Article to balance the need to provide for convenient and safe public transportation routes with the need to preserve these scenic and rural roads. Therefore, be it ordained by the Town of Simsbury that, pursuant to the authority granted by Connecticut General Statutes, Section 7-149a, the Town of Simsbury shall provide for the designation of certain town highways or portions thereof within its borders as scenic roads.

§ 137-10. Authority.

The Planning Commission is hereby authorized to designate a public highway or any portion of any public highway ("road") as a Scenic Road ("scenic road"), in accordance with the procedures in this Article. The authority granted by this Article is limited to public highways and rights-of-way and shall not include authority over property or features outside of the public highway right-of-way.

§ 137-11. Designation criteria.

- A. No road or portion of road shall be designated as a scenic road if it has intensive commercial development and intensive vehicular traffic. Prior to designating a road as a scenic road, the Planning Commission shall first specifically find that at least one of the following criteria is met:
- (1) The highway is unpaved.
 - (2) The highway is bordered by mature trees or stone walls.
 - (3) The traveled portion of the highway is no more than 20 feet in width.
 - (4) The highway offers scenic views.
 - (5) The highway blends naturally into the surrounding terrain.
 - (6) The highway parallels or crosses over brooks, streams, lakes or ponds.
- B. Aside from these criteria, the Planning Commission may give consideration to the following, including, without limitation, vistas or buildings, structures or places of historical significance, recreational use, proximity to open space, agricultural or forest lands and notable geologic or other natural features which would benefit from a road's designation as a scenic road.
- C. No road may be designated as a Scenic Road by the Planning Commission pursuant to this Article unless the owners of the majority of the lot frontage abutting the portion of the road

2. Editor's Note: This ordinance also provided that it become effective 2-28-1991.

proposed for such designation agree to its designation as a scenic road by filing a written statement of approval with the Town Clerk of the Town of Simsbury, which statement of approval shall meet the requirements of § 137-12 of this Article.

§ 137-12. Application procedure.

- A. Request for designation. The Planning Commission may consider a road for designation as a scenic road and shall consider such redesignation upon receipt of a request for designation or may itself initiate such a request, as herein described. No road shall be designated as a scenic road by the Planning Commission unless a request for designation has been filed with the Commission on a form prescribed by it, containing the following:
- (1) The name of the road proposed to be designated as a scenic road and a general description of the road or portion of it to be designated, which includes the total frontage of the road section proposed, and the names and addresses of all abutters. The above information shall be shown on a plan at a scale of one inch equals 100 feet, showing the limits of the proposed designation section of the road (the town's one-inch-equals-one-hundred-foot topographic maps may be used).
 - (2) A written description identifying those characteristics of the road which qualify it for scenic road status, including as a minimum, but not limited to, reference to the criteria set forth in § 137-11 of this Article.
 - (3) A copy of a statement of approval signed by the owners of a majority of lot frontage abutting the proposed scenic road, stating that they consent to its designation as a scenic road. The statement of approval shall include their names and addresses and the measured lot frontage of each along the proposed scenic road. The statement of approval shall be in a form prescribed by the Planning Commission, and the original of it shall be filed with the Town Clerk at the same time as the copy is filed with the Planning Commission as part of the request for designation.
- B. Hearing and decision. Before designating a road as a scenic road, the Planning Commission shall hold a public hearing in accordance with § 137-14.
- C. Rescission. The Planning Commission may rescind the designation of a road as a scenic road in accordance with the procedures set forth in § 137-14, provided that the owners of a majority of the lot frontage abutting the scenic road concur with such rescission and have filed with the Town Clerk a written statement of approval of rescission, which shall include their names and addresses and the measured lot frontage of each along the scenic road. A copy of said written statement of approval of rescission shall be filed with the Planning Commission at the same time as it is filed with the Town Clerk. No designation of a road as a scenic road may be rescinded, and no statement of approval of rescission may be filed, for at least two years after the effective date of the designation of scenic road.

§ 137-13. Maintenance, alteration and reconstruction.

- A. Preservation objective. The town shall maintain its scenic roads in good and sufficient repair and in passable condition, pursuant to its regular schedule for maintenance of town roads. Routine maintenance, alteration and reconstruction of a scenic road shall be carried out so as

to preserve to the highest degree possible its scenic and rural characteristics, compatible with safe road operations. In the case of a natural disaster in which a scenic road becomes impassable or unsafe for public travel, emergency repairs may be made only to the extent needed to restore the scenic road to its preemergency condition.

- B. Routine road maintenance. Routine road maintenance shall include the removal of dead trees; the trimming of tree branches that encroach on the traveled portion of the scenic road below the height needed to allow school buses, road maintenance vehicles and emergency vehicles to pass; the trimming or removal of brush and the removal of boulders or other obstacles that encroach on the traveled portion of the scenic road or block safe sight distance; the necessary trimming for utility lines; the trimming of brush to enhance and protect scenic views, stone walls, mature trees and other characteristics of the scenic road set forth in the decision designating it as a scenic road; the correction of drainage problems, provided that such measures would not otherwise be considered alterations or improvements; the regrading of scenic roads having gravel surfaces; and the resurfacing, restoration and repair of existing paved roadway surfaces. The Town Engineer shall monitor routine road maintenance for compliance with this Article.
- C. Definition. As used herein, the term "alteration to a scenic road" shall mean all repairs or improvements other than routine road maintenance, as described in Subsection B above, or repairs made necessary by a natural disaster, as described in Subsection A above, and shall include any widening or straightening of the right-of-way, any widening, straightening or change of grade of the traveled portion of the scenic road, the paving of a scenic road having a gravel surface, the removal of stone walls, the removal of diseased or damaged trees, as well as of mature trees, the regrading of roadside slopes and all other similar improvements. As used herein, the term "reconstruction of a scenic road" shall mean the complete removal of the road surface and/or subsurface for the purposes of reconstructing the scenic road in its entirety, including recycling methods, and any extension of the width of the scenic road. Any alteration of a scenic road or reconstruction of a scenic road shall be made in accordance with the following procedures.
- D. Procedures.
 - (1) Public agency proposals for alteration of a scenic road or reconstruction of a scenic road shall be submitted to the Planning Commission. The Planning Commission shall approve, modify and approve or disapprove any proposal after a public hearing conducted in accordance with the requirements of § 137-14. Upon the filing of such a proposal with the Planning Commission, the Planning Commission shall ask the Town Planner and the Town Engineer each to submit a report of his views on the proposal and shall consider each report in the process of making its decision. If the decision of the Planning Commission is anything other than approval of the proposal as submitted by the public agency, the public agency may, within 15 days after the decision has been published in a newspaper having general circulation in the town, file an appeal, in writing, with the Board of Selectmen. The Board shall thereafter review the record before the Planning Commission, including the public agency proposal, the Commission decision and the reasons for that decision as stated in the records of the Planning Commission, and, within 30 days after filing of the appeal with it, shall render its decision either affirming, modifying and affirming or overruling and setting aside the

decision of the Planning Commission.

- (2) Proposals for the alteration of a scenic road or reconstruction of a scenic road as part of an application for a subdivision that will have a public hearing shall be submitted to the Planning Commission for approval, and the Commission shall approve, modify and approve or disapprove any proposal after a public hearing conducted in accordance with the requirements of § 137-14. The process and timing shall be concurrent with, and be conducted simultaneously with, the subdivision application. The Planning Commission may require the applicant to submit engineering or other technical reports documenting a need for the alteration or reconstruction and evaluating potential alternative solutions. The Planning Commission shall evaluate both the subdivision highway standards and the scenic values.
- (3) Proposals for alteration of a scenic road or reconstruction on a scenic road made by a private applicant, other than those for a subdivision having a public hearing, shall be submitted to the Planning Commission for approval, and the Commission shall approve, modify and approve or disapprove any proposal after a public hearing conducted in accordance with the requirements of § 137-14. If it deems it necessary, the Planning Commission may require the applicant to submit engineering or other technical reports documenting a need for the alteration or reconstruction and evaluating potential alternative solutions. The Planning Commission shall evaluate both the subdivision highway standards and the scenic values in considering such proposals for alterations or reconstructions.

E. Standards for alteration or reconstruction.

- (1) No alteration of a scenic road or reconstruction of a scenic road (see Subsection C above) shall be made unless the Planning Commission determines that such alteration or reconstruction is necessary to maintain the scenic road in good and sufficient repair and in safe condition for public travel.
- (2) In determining whether to allow the proposed alteration of a scenic road or reconstruction of a scenic road, the Planning Commission shall take into account the specific safety features of the proposed change, the overall impact of the proposed change on the scenic road and the public response to the proposed change. Any decision by the Planning Commission to permit an alteration of a scenic road or reconstruction of a scenic road shall reflect the least possible damage to the character of the scenic road. If an alteration of a scenic road or reconstruction of a scenic road is approved, then the Planning Commission shall specify the following requirements as they relate to scenic values:
 - (a) Curves. Curves shall not be eliminated unless they are found to be a hazard.
 - (b) Grades. Hills and valleys shall not be destroyed by cuts and fills unless absolutely essential for road safety.
 - (c) Widths. A scenic road should only be widened if the Planning Commission finds that the amount of traffic, safe road operations and maintenance needs require such widening. For some rural roads, the amount of traffic that can be handled can be

greatly increased by wide bypasses and turn-outs, constructed at intervals where they do the least damage to scenic and other values.

- (d) Side slopes. The existing steepness of side slope is preferable to the reduction of gradient by extensive removal of soil and rock. This is especially true where the slope is fully stabilized and where it is rich with existing ground cover, shrubs and trees.
 - (e) Vistas. Vistas of distinct landscapes shall be preserved by suitable vegetation management techniques.
 - (f) Vegetation. Vegetation on the side of the scenic road shall be managed in such a way as to preserve wild flowers, shrubs of ornamental and wildlife values, trees, overarching isolated trees and trees forming a canopy of a closed forest.
 - (g) Stone walls. If stone walls or portions thereof must be removed, they shall be rebuilt along the affected portion of the scenic road.
- (3) The Planning Commission shall assure itself that suitable vegetation management techniques are employed to preserve any tree canopy, shrubs and other vegetation, consistent with the need for clearance for utility lines.
- (4) The Planning Commission shall not grant an application for alteration of a scenic road or reconstruction of a scenic road to accommodate a proposed subdivision or other development of land to which the scenic road would provide access unless the Planning Commission determines that such alteration or reconstruction will not have a material adverse effect on the characteristics of the scenic road which formed the basis for its designation as a scenic road.
- F. Reconstruction criteria. No scenic road may be reconstructed beyond that permitted in accordance with this § 137-13 of this Article, unless the Planning Commission finds that there is no reasonable alternative to the improvement or alteration of the scenic road other than such reconstruction. Such finding shall be based upon approved road construction and safety standards and a finding that the alteration or reconstruction is necessary to maintain the scenic road in good and sufficient repair and in a safe condition for travel in accordance with the provisions of this section. Before any alteration or reconstruction may be made to a scenic road pursuant to this section, all other requirements and procedures of § 137-14 of this Article must also be complied with.
- G. Rights of landowners.
- (1) Nothing in this Article shall be deemed to prohibit a person owning or occupying land abutting the scenic road from maintaining and repairing the land which abuts the scenic road so designated if the maintenance is on land not within the right-of-way, paved or unpaved, of the scenic road or from having access to his or her property by driveway or subdivision road by encroachment within the rights-of-way, provided that such encroachment is constructed so as to safeguard the basis for a scenic road as recorded by the Planning Commission.
 - (2) Nothing herein shall prohibit a landowner from permanently removing a portion of a

stone wall in order to construct or improve a driveway or, in the case of a subdivision, to connect a subdivision road with a designated scenic road, but these activities must be consistent with these guidelines and are subject to Planning Commission approval.

- H. Nonapplicability. This Article shall not apply to the construction of new subdivision roads or to private roads. This Article shall not apply to public safety equipment and signage.

§ 137-14. Administration.

- A. Public hearings. A request for designation, a request for rescission of designation, a proposal for alteration of a scenic road and a proposal for reconstruction of a scenic road shall be filed with the Planning Commission. The Planning Commission shall commence a public hearing within 65 days after receipt of such request or proposal or an application prepared in accordance with this Article, and said hearing shall be completed within 30 days after such hearing commences. The applicant or the Commission may consent to one or more extensions of any period specified in this section, provided that the total extension of any such period shall not be for longer than the original period as specified in this section, or the applicant may withdraw such application. For the purposes of this section, the day of receipt of a request or proposal shall be the day of the next regularly scheduled meeting of the Planning Commission immediately following the day of submission to the Planning Commission or the Planning Department or 35 days after such submission, whichever is sooner. Notice of the time and place of such public hearing shall be published in a newspaper having a substantial circulation in the town at least twice, at intervals of not less than two days, the first not more than 15 days or less than 10 days, and the last not less than two days before the day of such hearing. Notice of such public hearing shall be sent by certified mail to the owners of the lots fronting on the road designated as a scenic road. Notice of the hearing shall be sent to the Director of Public Works and to all utility companies which service the area. At such hearing, any person may appear in person and may be represented by agent or by an attorney.
- B. Decision. The Planning Commission shall render its decision on any request or proposal made under Subsection A within 65 days after closing the hearing. The applicant may consent to one or more extensions of this period, provided that the total extension shall not be for longer than 65 days. Within 15 days after the date the Commission rendered its decision, the decision shall be published in a newspaper having general circulation in the town, and notice of such decision shall be sent by certified mail to the owners of the lots fronting on that road designated as a scenic road. Such notice shall include a statement of a decision, together with the date of such action and the reasons for the decision as stated in the records of the Planning Commission. Notice of the decision and the reasons for the decision shall be forwarded to the Director of Public Works and to all utility companies which service the area affected by the application within 15 days after acting.

§ 137-15. Appeals.

Any person aggrieved by a designation of a highway or portion of a highway by the Planning Commission as a scenic road pursuant to this Article may appeal such designation in the manner and utilizing the same standards of review provided for appeals from the decisions of Planning Commissions under Connecticut General Statutes, Section 8-8, as the same may be amended from

time to time.