



6.8 SCENIC EASEMENTS

Scenic highway easements are created for the protection and preservation of land areas containing natural beauty by restricting and preventing future development that may tend to detract from existing uses. Scenic easements exist in perpetuity as a permanent interest in another's land with a right to enjoy it fully without obstruction. The easements are enforceable through the same conditions as a "conservation easement" see [s. 700.40\(1\) Wis. Stats.](#), and owned by the state of Wisconsin and protected by WisDOT. The initial concept of scenic highway easement stems from the idea that there is enjoyment and recreation for the traveling public in viewing a relatively unspoiled natural landscape.

The purchase of a scenic easement is not contrary to [s. 86.255 Wis. Stats.](#) regarding lands located outside the quarter mile limitations of highways. The department may purchase lands or interests in lands that are located on a single parcel that is completely or partially within one-quarter mile of a highway or proposed highway. This includes scenic easements. For further information regarding Wisconsin Statute 86.255, please reference the Facilities Development Manual (FDM 12-5-3). Any questions regarding the interpretation of this statute, as it relates to such acquisition, can be directed to the BTS-RE acquisition coordinator.

The need for a scenic easement usually originates in the planning stage of a project and is later transferred to the environmental documents and then to the plat. Scenic easements were usually acquired with federal LAWCON Funds that prohibit any access across these parcels and or sale of these properties. Variances must be granted for the sale of state scenic easements.

Under extenuating circumstances WisDOT can grant a variance for access or sales. The purchase of the restricted area is usually carried through by deed and the language contained therein determines the relative rights of the landowners. See samples of scenic deed language, such as: terms and conditions, restrictions, and permitted use or occupation of restricted area. Driveways permitted across these parcels would be dependent on the particular restrictions indicated on the parcel deed or agreement. It is suggested that you review the restrictions placed on the parcel before you consider any modifications and discuss with the BTS-RE property management coordinator. Typically, scenic easements do not allow any encroachments and there are no exceptions to this rule. Verify if federal funds were used in purchase of R/W before disposal is considered. Scenic Easement (RE1569) is the official WisDOT transference to be used for all scenic easements.