



1.1 History of Scenic Easements

The scenic easement program in Wisconsin started with, and is centered around, the Great River Road. The Great River Road was originally conceived in 1938. It involves the establishment of scenic parkway routes on both sides of the Mississippi River from a point near its mouth on the Gulf of Mexico, northward to, and encirclement of, the Lake of the Woods on the border of Minnesota and the Canadian provinces of Manitoba and Ontario. The Mississippi Parkway is similar to the Blue Ridge Parkway and the Natchez Trace in the eastern United States, which were also established to preserve scenic and historic drives.

The Great River Road enters Wisconsin on STH 80 near Hazel Green, follows roadways along the Mississippi River, and leaves the state at the junction of the St. Croix and Mississippi Rivers. A major portion of the route follows STH 35.

Wisconsin has actively participated in the establishment of this parkway since 1939 when the Legislature enacted the enabling act, 84.105 of the state statutes. The first Wisconsin section of the Great River Road to be initiated was the portion of STH 35 in LaCrosse and Trempealeau Counties which was completed in 1952. Since that time, the entire route has been completed. There are also other areas of the state where it was considered important to preserve the scenic beauty and limit the amount of development that would take place. Examples of some of these areas include both sides of the Chippewa River along STH 178 between Jim Falls and Cornell in Chippewa County; and a seven-mile stretch along the Wisconsin River on STH 107 between Merrill and Tomahawk in Lincoln County.

1.2 Scenic Easements

Scenic easements, like other easements, consist of acquiring certain interests in properties that abut a given highway for the purpose of controlling the development and use of the areas. The owners are paid for the rights acquired and the interests are then owned by the state. These rights are perpetual and can be changed only by conveying those interests or by granting a scenic easement variance. The scenic easement deals primarily with permitted or non-permitted uses. The WisDOT form for recording scenic easements is found in [Attachment 1.1](#).

1.3 Purpose

The purpose of the scenic easement is to preserve the natural beauty of the roadside by preventing unsightly developments which may destroy or detract from the natural beauty and may result in danger to the traveling public. Owners of abutting property are asked to convey easements to the state which impose certain restrictions on the future use and development of lands within the scenic easement.

1.4 Scenic Easement Areas

Most scenic easements include an area 350 feet (106.7 m) in depth along either side of a route within an area where it is deemed important to preserve certain scenic qualities. These scenic easement areas normally include entire routes except for sections within village or city limits which are left to the discretion of the local governmental body to control. In some areas, the scenic easement may extend to the top of an adjacent bluff, to a forty line or some other landmark as a point of reference. While each scenic easement stands on its own merits, there are certain standard restrictions that are included in each document. To some extent, the scenic easement may be considered similar to zoning restrictions, except the zoning restrictions are imposed without compensation. Scenic easements may determine access spacing in cases where they require a certain amount of frontage for each developed use or property. The scenic easement may also restrict the use of the property to a lower level traffic generator such as agricultural or residential as opposed to commercial or industrial.

1.5 Typical Scenic Easement Terms

A typical scenic easement contains the following general terms and conditions:

1. A list of the permitted uses.
2. A prohibition against dumping unsightly or offensive materials except as is incidental to the permitted occupation and use of the land for normal agricultural or horticultural purposes.
3. A prohibition against signs, billboards, outdoor advertising structures or advertisements of any kind, except one sign of not more than eight square feet in area to advertise the sale, hire or lease of the

property or the sale of any products produced upon the premises.

These are general terms and it is important to be aware that each project and, in some cases, each easement has individual language due to the location, type of property involved and the reason for protecting a particular attribute or scenic quality. The majority of the scenic easement projects are located in District 5 because Great River Road mileage through this area is substantial. In addition to preserving the scenic qualities of the area and the spacing of development, scenic easements also benefit abutting property owners by: preventing neighboring properties from adverse use or development; helping their property to maintain or increase in value because of controlled use on abutting properties; encouraging more substantial improvements due to size of sites; and increasing the pride of ownership.

1.6 Enforcement of Scenic Easements

Scenic easement surveillance is done by district maintenance sections as part of their overall responsibility for highways and roadsides. When a violation is identified, the property owner is notified and is requested to correct the situation. If the violation continues, the Real Estate Section proceeds to take legal action to bring the situation into compliance. The other area of the scenic easement program that requires a considerable amount of staff time is the handling of requests for variances and the requests for interpretation of the restrictions as they apply to each property. As scenic easements get older and the potential needs and uses change, they generate a considerable number of requests. This portion of the program is administered by the Real Estate Section.

Each scenic easement project has a Relocation Order filed and each individual scenic easement is recorded at the Register of Deeds Office. This enables anyone dealing with the areas covered by a scenic easement to identify the restricted area and consider those restrictions when making plans for any improvements or development.

1.7 Acquiring Scenic Easements

The procedure for acquiring a scenic easement is as follows:

1. The area to be preserved must be identified.
2. A relocation order should be developed and approved, similar to any other improvement project.
3. Funding is set aside to acquire scenic easement rights. The owner must be compensated for rights acquired.
4. A scenic easement can be condemned under statutes 32.19 and 84.09 (the same as any other interest in land).
5. Legal documents must be drafted and recorded.

1.8 Anticipated Future Use

Future use of the scenic easement will probably be limited due to the amount of management, enforcement and funding that is required to approve and maintain them and the fact that a large portion of the state's scenic areas have been protected by existing scenic easements.

1.9 Scenic Easement Summary

The following is a summary of scenic easement projects, parcels and acreage by district:

District	No. of Projects	No. of Parcels	Acres
1	33	136	1,472
2	6	20	574
3	21	70	453
4	14	50	371
5	47	843	13,121
6	21	247	2,701
7	12	42	245
8	29	97	852
Total	183	1,505	19,789

LIST OF ATTACHMENTS

[Attachment 1.1](#) Form DT1569, Scenic Easement Form