

Massachusetts House of Representatives Bill Summary

Bill #: H.2281

Title: An Act reducing impervious surfaces

Sponsor: Rep. Kevin Honan

Committee: Municipalities and Regional Government

Hearing Date: July 22, 2025

Prior History: Refile of H.2063 (See Study Order H.4573)

Current Law: Chapter 41 Section 81Q of MGL governs the adoption of rules and regulations by municipal planning boards. It describes the process for adoption of such rules and regulations and specifies the scope of the criteria and conditions that may be regulated by the board.

This section includes a provision which prohibits a city or town from establishing rules or regulations regarding the laying out, construction, alteration, or maintenance of roads within a subdivision which exceed the standards and criteria commonly applied to public roads in similarly zoned districts.

According to Massachusetts Land Use and Planning Law (Third Edition) by Mark Bobrowski, planning boards generally have wide discretion in comparing privately constructed ways in subdivisions to publicly constructed ways when drafting rules and regulations, with commonly used criteria including right-of-way width, pavement width, sidewalks, green strips, grading, slope, construction materials, and drainage.

In effect, the purpose of such regulation is to ensure that vehicular traffic, including emergency/public safety vehicles, may enter, exit and navigate the roads in a subdivision as if they were public roads.

Summary: Section 1 amends Chapter 41 Section 81Q of MGL by prohibiting local planning boards from adopting rules or regulations concerning the reconstruction of roads within a subdivision that exceed the criteria applied to public roads in a similarly zoned district. By restricting the standards for road width and other criteria, the effect would be to limit the amount of impervious material that is used to reconstruct a subdivision road.

Notes:

Impervious materials refer to materials used to create impervious surfaces. Impervious surfaces include concrete and asphalt.

If enacted, the act could reverse parts of a decision by the Appeals Court in *Miles v. Planning Board of Millbury*, 404 Mass. 489 (1989) in which the court ruled that the planning board of Millbury had the statutory authority to impose building standards on a proposed subdivision that involved the placement of a concrete sidewalk, a sloped granite curbing, and utility lines.