

**Guidelines for Creating  
Local Boating Ordinances  
And  
Placing Waterway Markers  
In Wisconsin Waters**

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## INTRODUCTION

These guidelines for writing boating ordinances and placing waterway markers have been designed to help you with basic questions and formats.

Realizing that there still may be additional questions in dealing with these tasks, I have included a list of the Department of Natural Resources Regional representatives on the back page that you can contact in your area. Please also refer to this list of DNR representatives when you are submitting any documents for DNR review or approval.

Please take the time to read these guidelines, as it will help us all to expedite processing of your ordinances or waterway marker applications. With your help we can make Wisconsin's waterways a safer place to recreate.

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## **GUIDELINES FOR WRITING LOCAL BOATING ORDINANCES**

State law allows counties, towns, villages, cities, public inland lake protection and rehabilitation districts, and town sanitary districts to enact local regulations relative to boating in the interest of **public health, safety or welfare**, including the public's interest in preserving the state's natural resources. State boating law provides a general framework of regulation, but it is up to towns, villages, cities, public inland lake protection and rehabilitation districts and town sanitary districts, to provide regulations tailored to local conditions. The authority to enact local regulations is found in Chapter 30 of the Wisconsin Statutes. See Sections 30.77(2) and 30.77(3), Wis. Stats. for the exact wording of the enabling legislation. See Chapter 33, Wisconsin Statutes for the language regarding Public Inland Lake Protect and Rehabilitation Districts.

**The following guidelines are designed to aid in the drafting of your ordinance.**

1. Be sure to state the specific name or a legal description of the waters covered by the ordinance. Be certain an inland lake lies entirely within the jurisdiction of your municipality. If there is more than one jurisdiction on an inland lake, at least one of the following situations must occur for an ordinance to be valid and enforceable
  - a. All towns, villages and cities having jurisdiction over the lake, have enacted an identical ordinance.
  - b. At least 50% of the towns, villages and cities having jurisdiction over the lake have enacted an identical ordinance and that at least 60% of the footage of the shoreline of the lake lies within the boundaries of these towns, villages and cities.

If a town, village or city proposes to amend or repeal the ordinance, they must hold a hearing on the issue at least 30 days before the amendment or repeal takes effect. If after holding the hearing, the town, village or city amend or repeal the ordinance that was originally enacted, and the criteria listed in (1.b.) above, no longer applies, then all of the previous identical ordinances are now void.

2. A public inland lake protection and rehabilitation district or a town sanitary district may enact and enforce ordinances applicable to a lake within its jurisdiction only if one of the following apply:
  - a. Each town, village or city, that has jurisdiction over the lake, must adopt resolutions authorizing the lake district or town sanitary district authorization to adopt ordinances.
  - b. At least 50% of the towns, cities or villages having jurisdiction over the lake adopt resolutions authorizing the lake district or town sanitary district to enact or enforce boating ordinances and at least 60% of the footage of the shoreline of the lake, is within the boundaries of these towns, villages or cities.

If a town, village or city proposes to rescind the resolution authorizing a lake district or town sanitary district to enact ordinances so that (2.b.) above, no longer applies it is required to hold a hearing on the issue at least 30 days before the recession will take effect. If after holding the hearing the town, village or city rescinds the resolution the ordinances adopted by the lake district or town sanitary district are void.

3. In any multiple jurisdiction situations identified in 2. & 3. above, a public hearing must be held on any proposed ordinance at least 30 days before it is enacted. The notice of public hearing must be published at least 30 days before the public hearing date. This requires the notice of

the public hearing must occur a minimum of 60 days before the proposed ordinance would be enacted.

4. Local ordinance demands should be equal to the local ability to enforce. Conservation wardens enforce state law, but should not be expected to respond to complaints of local ordinance violations.
5. All citizens have public rights in navigable waters. The state holds these waters in trust for all people. Ordinances cannot be adopted to restrict non-residents of the local jurisdiction or non Wisconsin residents from access or use of the navigable water.
6. Local ordinances cannot be less restrictive than State law. Local ordinances cannot have any special features that counter or reduce the restriction found in State law.
7. Riparian rights must be considered. Local ordinances cannot unreasonably interfere with the riparian's basic right of gaining access to the water.
8. Ordinance language should avoid paraphrasing when state statutes are restated in a local ordinance. Where possible, State boating laws should be adopted by reference. This will avoid confusion and ensure that the local ordinance remains valid without any future revision in the event of State statutory changes.
9. Provisions such as Sections 30.60, 30.61, 30.62, 30.63, 30.64, 30.67, 30.675, 30.68(3)(b) and 30.71, Wis. Stats., which deal with equipment requirements and safety regulations may not be changed by local ordinances except pursuant to NR 5.19, Wis. Adm. Code, which allows certain exceptions for water exhibitions and races.
10. If an ordinance is enacted according to Sections 30.77(3), posting in accordance with Section 30.77(4) and NR 5.15 Wis. Adm. Code must be accomplished to insure an enforceable ordinance. Posting enables boaters to read and **understand** the local regulations. The clearer the language the better. (See "Posting of Local Ordinance" section for more information)

A posted map of the local water with 'colored in' restricted zones is an excellent way to convey information to boaters.

11. All controlled areas such as slow-no-wake areas must be specifically described in an ordinance.
12. Regulatory waterway marker placement must be authorized in a local ordinance, and authorized on the waterway marker permit application (Form 8700-58) and approved by the Department of Natural Resources, before placement.
13. Speed restrictions designated in miles per hour are difficult to enforce. Slow-no-wake is preferable where appropriate.
14. Uniformity of traffic rules throughout the state is necessary so that the transient boater and the general public may know the law. Ordinances regulating local conditions such as approaching or leaving docks and landings should conform as nearly as possible to state law.
15. Where state law specifically allows something, local regulations cannot prohibit the same. For example, age requirements for operation cannot deviate from state law.

16. Across the board regulation by boat size, type of boat, or horsepower has been considered an unwarranted restriction of public rights in previous court rulings.
17. Where an ordinance imposes regulations which are more restrictive than state law, the Department will require a condition report outlining the local conditions which necessitate such a restriction. See the Condition Report section (page 6) of this handbook for further direction.
18. It is suggested that all ordinances contain a severability section.
19. All ordinances must contain a separate penalty section. As required by Chapter 800.04(2), Wis. Stats., deposits for boating violations shall be in accordance with the amount established by the uniform deposit schedule under s. 23.66, Wis. Stats.

**It is suggested that the penalty section be worded such as: Wisconsin state boating penalties as found in Wis. Stat. 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference and all references to fines amended to forfeitures and all references to imprisonment deleted.** (Note: A uniform bond schedule may be obtained from the Recreational Safety Warden in your region. See the map on the back cover of this publication.

20. Ordinances for inland lakes must be submitted to the Department of Natural Resources for review at least 60 days prior to the possible final action thereon.
21. A signed, dated copy of all ordinances must be submitted to the Department after passage, with proof of publication, in order for the ordinance to be legal and enforceable.

The amount and type of water-based activities is constantly growing and local regulation can be responsive to the public need. Through regulation, a safe enjoyable water environment can be provided while at the same time controlling undesirable conflict. Understanding is needed by everyone involved in the regulatory process in order to solve Wisconsin's boating problems.

This handbook contains some example ordinances that may be used in drafting a local ordinance to meet your specific needs. Feel free to use the suggested wording, filling in the blanks and making revisions for local conditions where necessary.

We recommend following the suggested formats to ensure accuracy, uniformity and completeness.

If assistance is desired in writing your ordinance, your local Conservation Warden or the Department of Natural Resources Regional Recreational Safety Warden (RSW) assigned to your County, should be contacted. A map located at the back of this "guideline" identifies the RSW assigned to your county. The RSW will be able to identify the DNR warden assigned to your county if you will need to contact that individual for assistance.

## POSTING OF LOCAL ORDINANCES

### REFERENCES:

#### Wisconsin Statutes

30.77(4) **Publicizing Local Regulations.** All local regulations adopted under sub. (3) shall be prominently posted by the local authority which enacted them at all public access points within the local authority's jurisdiction and also shall be filed with the department.

#### Wisconsin Administrative Codes

NR 5.15 **Posting Requirements.** The posting requirements for local authorities under s. 30.77(4), Stats. shall be a sign with a minimum of 3 inch lettering stating "**Local Ordinance**" posted at each public landing. The sign shall list, in letters with a minimum height of 1 inch, a summary, synopsis, or outline of those regulations more restrictive than state law, or shall contain a map made of a durable material showing those areas with local restrictions, or both, including but not limited to speed limits, water ski hours and personal watercraft restrictions, if any.

#### Main Points of Posting Requirement ---

1. Shall be posted by the local authority which enacted the regulation.
2. Shall be posted at all public access points.
3. Shall be a sign with "Local Ordinance" in 3 inch lettering (minimum size).
4. Shall list those regulations more restrictive than state law in 1 inch lettering.
5. Shall identify the adoption date of the ordinance or any subsequent revision dates.
6. May be a summary, synopsis or outline of those regulations.



## POSTING OF LOCAL ORDINANCES

**EXAMPLE:** A township passes a boating ordinance that is 4 pages in length. The ordinance lists upon which waters the regulations pertain, the enforcement agency responsible for enforcement, which state laws are adopted, definitions as found in Chapter 30, Wis. Stats., designation of all slow-no-wake areas to be marked by buoys, water ski hours and hours of slow-no-wake. It also discusses the placement of rafts and construction materials to be used in piers.

### WHAT MUST THE TOWNSHIP POST???

WATER SKI HOURS OR SLOW-NO-WAKE TIMES?

**YES!** These are the only regulations more restrictive and unique to the lake.

BOAT TRAFFIC TOWING SKIERS, BOARDERS OR OTHER AQUA PLANE DEVICES  
MUST GO IN A COUNTER-CLOCKWISE DIRECTION ON THIS LAKE

**YES!** These regulations more restrictive and unique to the lake.

STATE LAWS ADOPTED, (i.e., battery covers, registration, age restrictions, slow-no-wake within 100' of a dock, no water-skiing after sunset, no Personal Watercraft operation within 100 feet of other watercraft at speed greater than slow-no-wake, etc)

**NO,** State laws need not be posted – they are the same for all boaters throughout Wisconsin.

### SAMPLE OF WHAT A SIGN COULD LOOK LIKE

<p style="text-align: center;"><b>LOCAL ORDINANCE</b></p> <p>Slow-no-wake speed from sunset to sunrise</p> <p>Slow-no-wake in areas marked by slow-no-wake buoys</p> <p>No water-skiing or similar activity between 7:00 pm and 10:00 am</p> <p style="text-align: center;">Should identify the local ordinance identification or code number And the dates the ordinance(s) were adopted</p>
---

Helpful, but not required, information the sign could contain:



Telephone number of local Police department, Fire department or 9-1-1



Map of the lake showing slow-no-wake areas, marinas, depth contours, direction of boat movement flow (if it is a requirement of the ordinance)

## CONDITION REPORTS

If a regulation or regulation change is being enacted pursuant to Section 30.77(3), Wis. Stats., the Department requires that a condition report providing the facts supporting the regulation or change, be submitted with the ordinance for review. The Condition Report is an integral document to identify the need and justify the ordinance.

The condition report shall include, at a minimum, the following items:

- The local conditions necessitating the regulation or regulation change.
- How the new or changed local regulation will solve the situation.
- The probable or possible negative effects of the measures considered, and who will be adversely affected by the adopted ordinance.
- An opinion statement concerning the impact the regulation will have on public health, public safety, or welfare, if this regulation is not adopted.
- A statement summarizing the arguments of the interests opposed to the regulation or regulation change.

Local conditions you might consider to include, but are not limited to are, number of citations issued, physical size of the body of water, width of a channel, water depth of the entire lake or the area impacted, the concentration of boaters due to constricted areas, egress and ingress from a landing or marina, etc. These statements should be supported with actual data where possible such as the number of accidents or complaints occurring, number of boat slips, etc.

As you can see from the above listed items, the Condition Report should make explicit why an ordinance is in the public interest. This is important because an ordinance that excludes a part of the general public may raise substantial and material questions of fact. A court test may be required to settle these questions. By showing how and why an ordinance is in the public interest, the Condition Report may reduce the ordinance opposition or prevent a court test.

The Condition Report will enable the Department to investigate the pertinent local conditions requiring the ordinance and complete an advisory review in a more timely manner. Advisory reviews will consider the effect the regulation has on the state from the standpoint of uniformity and enforcement. It will also consider whether or not regulations are consistent or inconsistent with Chapter 30 with regard to public health, safety or welfare. Our review is designed to prevent special interest regulations that do not coincide with the public interest.

An unenforceable or difficult to enforce ordinance is a burden and a source of conflict between the enforcing authority and the people it was enacted to protect. A major reason for creating an ordinance is to lessen conflict. The Department may take action to contest local ordinances that do not provide for public health, safety, or welfare and those which are contrary to or inconsistent with state or federal boating laws.

## REGULATION OF WATERCRAFT BY TYPE

There has been much debate regarding local ordinances which restrict or ban certain kinds of watercraft, primarily personal watercraft. The Attorney General has stated that regulations restricting a particular type of watercraft may be appropriate under certain circumstances if the municipality can demonstrate that the interests of public health, safety, and welfare justify the ordinance. The Public Intervenor has outlined points that should be considered in determining the validity of such a regulation. The Department of Natural Resources cannot say whether a restriction of this type would be upheld in court, but recommends that municipalities evaluate their situation based on the following criteria when drafting their boating ordinances and include this information in a condition report which should be submitted to the department together with the draft ordinance for review.

1. What is the goal of the regulation?
2. Why is this a reasonable and rational purpose?
3. How will the regulation accomplish the goal?
4. Is this type of boat reasonably singled out?
  - a) What are substantial distinctions between this type of boat and every other type of boat?
  - b) Do these distinctions reasonably suggest substantially different regulations for this type of boat?
  - c) Are there any other types of boats which do, or could potentially, cause the same problem(s)? How are these types of boats being regulated?
  - d) Does the regulation apply equally to each boat of this type? To each boat which could potentially cause the same problem?
5. Is the condition that causes the perceived need for the regulation only in existence during a certain time of year? Day? If so, when?
6. What are the anticipated results if this regulation is not enacted?
7. Describe the public support for this regulation.
8. Describe the public opposition to this regulation.
9. Are there other less restrictive regulations which could accomplish the goal?
  - a) Have other types of regulations been tried? If so, what were the regulations and what was the outcome?

Many of the complaints the Department receives regarding personal watercraft are with regard to either noise or location of operation. Please be aware that there are laws in place to deal with these problems. Section 30.62(2) of the Wisconsin Statutes regulates boat noise. Have decibel readings been taken to determine whether any boats are exceeding the legal decibel limit? If so, enforcement action should be taken under s. 30.62(2), Wis. Stats. Section 30.66 and 30.69(3), Wis. Stats. State that PWC cannot operate faster than slow-no-wake within 100' of another craft or 200' of the shoreline of a lake and cannot operate within 100' of a boat towing a skier, the ski rope, or the skier. Oftentimes, enforcement of existing laws can eliminate the problem.

**EXAMPLE ORDINANCE FOR ADOPTION OF STATE STATUTES**

A SOLE ORDINANCE TO REGULATE BOATING UPON THE WATERS OF \_\_\_\_\_ AND  
PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

The (County/City/Town/Village)<sup>1</sup> Board of the (County/City/Town/Village<sup>1</sup>) of \_\_\_\_\_ do  
ordain as follows:

**Section I. Applicability and Enforcement**

- (a) The provisions of this Ordinance shall apply to the waters of \_\_\_\_\_.
- (b) This chapter shall be enforced by the officers of the (County/City/Town/Village<sup>1</sup>) of \_\_\_\_\_.

**Section II Intent**

The intent of this ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of the water resources.

**Section III State Boating and Safety Laws Adopted**

State boating laws as found in ss. 30.50 to 30.71, Wis. Stats., are adopted by reference.

**Section IV Penalties**

Wisconsin state boating penalties as found in Wis. Stat. 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference and all references to fines amended to forfeitures and all references to imprisonment deleted.

**Section VII Severability**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the (County/City/Town/Village) Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

**Section VIII Effective Date**

This section will become effective upon its passage and the day after publication.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(County/City/Town/Village<sup>1</sup>) Chairperson Name

\_\_\_\_\_  
Signature of Chairperson

<sup>1</sup> Public Lake Protection & Rehabilitation District may also be substituted in place of the (County/City/Town/Village) blank.

**EXAMPLE ORDINANCE FOR  
SLOW-NO-WAKE AREA**

A SOLE ORDINANCE TO REGULATE BOATING UPON THE WATERS OF \_\_\_\_\_ AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

The (County/City/Town/Village<sup>1</sup>) Board of the (County/City/Town/Village<sup>1</sup>) of \_\_\_\_\_ do ordain as follows:

**Section I.     Applicability and Enforcement**

- (a)     The provisions of this Ordinance shall apply to the waters of \_\_\_\_\_.
- (b)     This chapter shall be enforced by the officers of the County/City/Town/Village of \_\_\_\_\_.

**Section II     Intent**

The intent of this ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of the water resources.

**Section III    State Boating and Safety Laws Adopted**

State boating laws as found in ss. 30.50 to 30.71, Wis. Stats., are adopted by reference.

**Section IV     Definitions**

- (a)     "Slow-no-wake" means that speed at which a boat moves as slowly as possible while still maintaining steerage control.

**ALSO INCLUDE DEFINITIONS OF OTHER TERMS USED IN YOUR ORDINANCE.**

**Section V     Controlled Area**

No person shall operate a boat faster than slow-no-wake in the waters of (name of area/lake/bay, etc.) beginning (location - specific) and ending (location - specific) at any time.

<sup>1</sup> Public Inland Lake Protection and Rehabilitation District may also be substituted in any County/City/Town/Village blank.

Section VI **Posting Requirements**

The (County/City/Town/Village<sup>1</sup>) of \_\_\_\_\_ shall place and maintain a synopsis of this ordinance at all public access points within the jurisdiction of the (County/City/Town/Village<sup>1</sup>) pursuant to the requirements of NR 5.15 Wis. Admin. Code.

Section VII **Penalties**

Wisconsin state boating penalties as found in Wis. Stat. 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference and all references to fines amended to forfeitures and all references to imprisonment deleted.

Section VIII **Severability**

The provisions of this Ordinance shall be deemed severable and it is expressly declared that the (County/City/Town/Village<sup>1</sup>) Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

Section IX **Effective Date**

This section will become effective upon passage and the day after publication.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(County/City/Town/Village<sup>1</sup>) Chairman

\_\_\_\_\_  
Signature of Chairperson

<sup>1</sup> Public Inland Lake Protection and Rehabilitation District may also be substituted in any County/City/Town/Village blank.

**EXAMPLE ORDINANCE FOR  
SLOW-NO-WAKE HOURS**

A SOLE ORDINANCE TO REGULATE BOATING UPON THE WATERS OF \_\_\_\_\_ AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

The (County/City/Town/Village<sup>1</sup>) Board of the (County/City/Town/Village<sup>2</sup>) of \_\_\_\_\_ do ordain as follows:

**Section I. Applicability and Enforcement**

- (a) The provisions of this Ordinance shall apply to the waters of \_\_\_\_\_.
- (b) This chapter shall be enforced by the officers of the County/City/Town/Village of \_\_\_\_\_.

**Section II Intent**

The intent of this ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of the water resources.

**Section III State Boating and Safety Laws Adopted**

State boating laws as found in ss. 30.50 to 30.71, Wis. Stats., are adopted by reference.

**Section IV Definitions**

- (a) "Slow-no-wake" means that speed at which a boat moves as slowly as possible while still maintaining steerage control.

**ALSO INCLUDE DEFINITIONS OF OTHER TERMS USED IN YOUR ORDINANCE.**

**Section V Hours of Operation**

No person shall operate a boat faster than slow-no-wake during the hours of \_\_\_\_\_ to \_\_\_\_\_ local time on \_\_\_\_\_ Lake.

**Section VI Posting Requirements**

The (County/City/Town/Village) of \_\_\_\_\_ shall place and maintain a synopsis of this ordinance at all public access points within the jurisdiction of the (County/City/Town/Village) pursuant to the requirements of NR 5.15 Wis. Admin. Code.

<sup>1</sup> Public Inland Lake Protection and Rehabilitation District may also be substituted in any County/City/Town/Village blank.

<sup>2</sup> Public Inland Lake Protection and Rehabilitation District may also be substituted in any County/City/Town/Village blank

**Section VII Penalties**

Wisconsin state boating penalties as found in Wis. Stat. 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference and all references to fines amended to forfeitures and all references to imprisonment deleted.

**Section VIII Severability**

The provisions of this Ordinance shall be deemed severable and it is expressly declared that the County/City/Town/Village<sup>3</sup> Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

**Section IX Effective Date**

This section will become effective upon passage and the day after publication.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(County/City/Town/Village) Chairperson Name

\_\_\_\_\_  
Signature of Chairperson

<sup>3</sup> Public Inland Lake Protection and Rehabilitation District may also be substituted in any County/City/Town/Village blank.