

An Assessment of the Status of Local Boating Regulations in Wisconsin: 2005



Prepared by Wisconsin Association of Lakes
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Executive Summary

In 2005 and 2006, the Wisconsin Association of Lakes worked to inventory the current local boating ordinances covering inland lakes across the state. We likely examined *most* of the local boating ordinances covering lakes across the state and likely considered only *some* of those that govern rivers, streams, and other waters. Some interesting facts, trends, and lessons emerge from the (somewhat limited) available data.

The 2005 snapshot of local boating regulation on Wisconsin lakes reveals that at least 531 local boating ordinances have been passed, with every kind of eligible unit of local government in the state having done so. The state's 1,260 towns have passed 400 local boating ordinances, the 400 villages have passed 49, the 190 cities have passed 66, the 227 special purpose lake or sanitary districts have passed 10, and the 72 counties have passed at least 13 ordinances.

Ten of the inventoried local ordinances (enacted by various kinds of local governments) only adopted the state's boating regulations at the local level—allowing the state rules to be enforced as local rules by local law enforcement—but did not further regulate boating locally. The kinds of activities regulated most commonly by the other 521 ordinances include high speed boating, water skiing, and swimming. High speed boating in particular is regulated in a variety of different ways by different local governments: in some cases, slow-no-wake zones are used; in other cases, slow-no-wake times (during the day) or days (during the week) are used; and some ordinances combine these two approaches. In other cases, speed limits are set on lakes, and some lakes feature outright prohibition of motorboats by local ordinance.

Although it is difficult to estimate the number of lakes covered by the inventoried ordinances, we generated some estimates. For instance, it appears that at least 908 lakes across the state are covered by the 531 catalogued local ordinances. Removing those ordinances that only adopt the state boating rules at the local level causes that number to drop to 826 lakes. In absolute terms, more small lakes are covered by ordinances than are large ones. However, correcting for the distribution of lakes across the state by size (where the vast majority are smaller and only a very few are large), the trend is that larger lakes are the target of local boating regulations much more frequently than are smaller lakes, particularly those with under 50 acres of surface area. To wit, 45% of lakes over 500 acres are covered by ordinances, while the same is true of 22% of lakes between 100 and 200 acres. And, only 3% of lakes smaller than 50 acres are regulated locally. It is important to remember that the State's boating regulations establish lakes under 50 acres with public access as entirely slow-no-wake, unless they serve as thoroughfares between other lakes.

Despite the fact that federal boating regulations apply to some Wisconsin waters and that the State's boating regulations apply to all Wisconsin waters, the Legislature has chosen to grant local units of government in Wisconsin broad authority to regulate boating and related activities on Wisconsin lakes, rivers, and streams. Local units of government of all kinds across the state have used that authority to tailor local rules to local conditions, both natural and social. The large number and wide array of ordinances examined in the course of this project highlights the diversity of local approaches taken to deal with situations arising from the overlap of sensitive and highly valued *natural* resources and prized *recreational* resources for lakeshore residents, all Wisconsinites, and visitors to the state alike.

Introduction

In 2005 and 2006, the Wisconsin Association of Lakes inventoried current local boating ordinances covering *lakes* across the state. The inventory was limited to ordinances contained in paper files housed at the central office of the Department of Natural Resources in Madison, and thus possibly left out some local boating ordinances in place on lakes—and almost certainly left out some local regulations covering other water bodies, such as rivers, streams, and the Great Lakes.¹

Detailed information on each ordinance on file at the Department was entered into a computer database and later analyzed. This report discusses the findings of our assessment of that 2005 snapshot of the status of local boating regulations on lakes in Wisconsin.

This report covers the kinds and numbers of ordinances that exist across the state and details how many and what kinds of local governments passed ordinances. It also provides the best available estimate on the number of lakes covered by local boating regulations and contains some analysis of statewide trends in local boating regulation on lakes.

¹ Based on the fact that state law changes made in 1973 [see Sec. 30.77 (3), Wis. Stats.] have since required that local boating ordinances governing *lakes* be shared and filed with the Department of Natural Resources prior to adoption, we operated on the premise that the collection of local boating ordinances on file at the Department's central office was as close as we could come to a comprehensive list of all current local boating ordinances governing lakes in the state. There is the possibility that additional local ordinances governing lakes exist but are not contained in the files we examined and thus are not considered in our assessment. There is certainly a high probability that local ordinances governing other water bodies—such as rivers, streams, and the Great Lakes—are not on file at the Department and thus not considered in our assessment. Indeed, ordinances of those kinds are *not* required to be submitted to the Department prior to adoption. Some ordinances governing other waters were on file at the Department, however, and thus were incorporated into our inventory database and overall assessment of local boating regulations across the state.

Local Boating Regulation in Wisconsin, in Brief*

Under Wisconsin law, local governments (cities, villages, towns, counties, and—in certain circumstances—lake districts and sanitary districts) are authorized to regulate boating. Boating regulation on rivers and streams is generally done by counties, as their authority is limited to rivers and streams—counties are not authorized to enact boating regulations affecting inland lakes. Which jurisdiction has authority to enact regulations on a specific water body depends on the number and types of local governments having frontage on the water body and decisions of those governing bodies.

Local boating regulations may be more restrictive than state law, but not less so, and must be consistent with public navigational rights. The Legislature has chosen to grant this authority in broad terms, allowing local leaders to deal with widely varying local conditions in a variety of ways. The current statute [in Sec. 30.77(3)(a), Wis. Stats.] authorizes local ordinances which relate to “the equipment, use or operation of boats,” adopted in the interest of “public health, safety or welfare, including the public’s interest in preserving the state’s natural resources,” which are “not contrary to or inconsistent with” state boating statutes. This includes (but is not limited to) restrictions on speed; restrictions on certain types of boating activities on all or specified parts of the lake, river, or stream; or restrictions on certain types of boating activities during specified hours of the day or specified days of the week.

The statutes also establish requirements for notice and public hearings on proposed boating ordinances and amendments to those ordinances. In most cases, local boating regulations governing *lakes* are also subject to advisory review by the Department of Natural Resources (DNR) prior to their final adoption.

Local governments that enact boating ordinances are also authorized to enforce them. Typically, enforcement is handled through the issuance of citations. Some smaller local governments (especially towns and districts) contract with other law enforcement agencies. Others hire off-duty police officers. DNR wardens are authorized to enforce local rules in addition to state boating laws.

* *From “Local Boating Regulation in Wisconsin: A Guide for Lake Management Organizations,” by William P. O’Connor (published by Wisconsin Association of Lakes, Inc.; 1998). Other resources on this subject: “Guidelines for Writing Local Boating Ordinances...” (WDNR Pub. LE-317-2006) and How’s the Water: Planning for Recreational Use on Wisconsin Lakes and Rivers: T. Dudiak & R. Korth, 2002, published by the Div. of Cooperative Extension of the University of Wisconsin-Extension and WDNR.*

State and Federal Boating Regulations in Wisconsin

All navigable waters in the state are governed by the state's boating regulations.* Some federal regulations also cover boating in Wisconsin inland waters and on the Great Lakes.**

State boating laws cover many aspects of boating, from the requirement that most boats used on Wisconsin waters be registered and titled with the state to the recently added requirement that anyone born on or after January 1, 1989 and who is at least 16 years of age have a boating safety education certificate in order to operate a motorboat on Wisconsin waterways.

State regulations outlaw dumping boat sewage in Wisconsin waterways and prohibit launching a boat, boat trailer, or boating equipment into Wisconsin waters if there are any aquatic plants or zebra mussels attached.

State boating laws govern lights on boats and other mandatory equipment requirements, and they regulate personal flotation device use, boating traffic, speed, the required minimum ages to be able to drive different kinds of boats, driving under the influence, water skiing, skin diving, buoys, and much more. It is the responsibility of each and every boater to know the applicable rules (federal, state, and local) and to follow them.

Please note: this sidebar does not cover all of the state boating regulations that must be followed in Wisconsin. The Wisconsin Association of Lakes recommends that all boaters, prior to heading out on Wisconsin waters, refer to the Department of Natural Resources' 2007 (or newer) Wisconsin Boating Regulations pamphlet, take a Wisconsin boating safety course, contact local Department law enforcement and local officials regarding the rules on the specific water body they plan to use, pay attention to signage communicating applicable rules, and make sure they are aware of the basic federal rules that apply.

* At the time of publication of this report, the State's 2007 Boating Regulations pamphlet could be found electronically at <http://dnr.wi.gov/org/es/enforcement/docs/BoatingRegs.pdf> or in DNR service centers and other locations across the state.

** For more information, refer to the U.S. Coast Guard's boating safety website at <http://www.uscgboating.org/>.

How many local boating ordinances are there, and what do they regulate?

As of 2005, the Department’s local boating regulation files contained 531 distinct ordinances. Ten ordinances *only* adopted the state’s boating regulations at the local level but did not go any further.²

We created 37 categories (see list in Table 1) to group similar topics covered in different communities’ ordinances. Some ordinances regulate only one activity; others regulate several activities and thus fall into several categories.

Table 1: Ordinance Types / Categories

Behavior: safe riding capacity, racing, etc.	Personal flotation device requirements
Boat launches	Personal watercraft restrictions
Buoy placement	Rafts and/or piers
Designated mooring area procedures	Restrictions during periods of high water
Designated mooring areas	Right-of-way
Horsepower limits	Seaplanes
Houseboat regulations	Ski jumps
Ice traffic regulations	Slow-no-wake areas
Lights	Slow-no-wake hours
Littering	Spear guns
Local adoption of state boating laws	Speed limits (m.p.h.)
Mooring ordinances	Swimming areas
Motorboat prohibition	Swimming regulations
Navigation lanes	Water exhibitions and races
No-anchor zones	Water ski drop-off / pick-up areas
Noise levels	Water skiing restrictions
Optional ordinances	Watercraft prohibition
Other	Waterway markers
Parasailing and paragliding	

Some ordinances cover just one lake, while others cover several lakes or even all the lakes in a certain town or county. Most ordinances are passed by just one unit of government; a few are passed jointly by two or more adjacent jurisdictions on the same lake. The latter can be necessary to ensure even coverage across the entirety of a body of water where it is crossed by the jurisdictional boundaries of more than one unit of government.³

² These ten local ordinances simply adopt the state’s boating regulations at the local level—nothing more. Some ordinances adopt the state’s rules and enact additional local regulations. Local units adopt the state rules so the state provisions can be enforced *as local ordinances*, though local authorities can enforce state regulations anyway.

³ Specifically, the law governing multi-jurisdictional lakes changed in 1996. Prior to that, regulations affecting boating on multi-jurisdictional lakes required the enactment of identical ordinances by every jurisdiction covering the lake. The requirement was changed in 1996 such that ordinances affecting an entire lake can be adopted if an identical ordinance is enacted by at least half of the jurisdictions on the lake, provided that their frontage equals at least sixty percent of the lake’s shoreline. *Source*: “Local Boating Regulation in Wisconsin: A Guide for Lake Management Organizations” by William P. O’Connor (Published by Wisconsin Association of Lakes, Inc.; 1998).

Table 2: Number of Ordinances, by Ordinance Type

Ordinance type	Number of ordinances	Percent
Slow-no-wake areas	287	54%
Water skiing restrictions	142	27%
Slow-no-wake hours	94	18%
Speed limits (m.p.h.)	66	12%
Motorboat prohibition	57	11%
Swimming regulations	55	10%
Water exhibitions and races	46	9%
Swimming areas	44	8%
Behavior: safe riding capacity, racing, etc.	40	8%
Littering	32	6%
Rafts and/or piers	31	6%
Buoy placement	28	5%
Ice traffic regulations	24	5%
Houseboat regulations	16	3%
Personal flotation device requirements	16	3%
Right-of-way	16	3%
Water ski drop-off / pick-up areas	16	3%
Seaplanes	15	3%
Watercraft prohibition	15	3%
Waterway markers	14	3%
Designated mooring area procedures	12	2%
Lights	12	2%
Navigation lanes	12	2%
Noise levels	12	2%
Personal watercraft restrictions	12	2%
Ski jumps	12	2%
Horsepower limits	11	2%
Local adoption of state boating laws ONLY	10	2%
Other	10	2%
Mooring ordinances	9	2%
Restrictions during periods of high water	9	2%
Boat launches	7	1%
Designated mooring areas	7	1%
Parasailing and paragliding	5	1%
Spear guns	3	1%
No-anchor zones	1	< 1%
Optional ordinances	1	< 1%

Table 2 shows how many communities have enacted ordinances fitting each of the 37 categories. High speed boating, water skiing, and swimming are the most frequently regulated activities.

A closer look at the ordinances regulating high speed boating on lakes reveals that there are several common ways to deal with the issue. Slow-no-wake zones are most common, slow-no-wake times (hours during the day and/or days during the week) are the second most common, and speed limits follow closely behind. Some ordinances (57 in our database) call for outright prohibitions on motorboats on the subject water bodies.

How many local governments, and what kinds, have enacted local boating laws on lakes?

The local boating ordinances we found to exist across the state in 2005 were adopted by every type of governmental unit eligible to do so—counties, cities, villages, towns, and lake and sanitary districts had adopted local boating regulations. The breakdown of how many ordinances had been adopted by each type of local government is detailed in Table 3.

Table 3: Ordinance Breakdown by Local Government Unit Type

Local government type	Total number of government type*	Number of ordinances by government type ⁴	Proportion of government type w/ boating ordinances
Town	1260	400	32%
City	190	66	36%
Village	400	49	13%
County	72	13	22%
District	227	10	4%

* Sources: On lake and sanitary districts: UW–Extension Lakes Program, 2007. On general-purpose local governments: Wisconsin Legislative Reference Bureau, 2005.

Over one-third of the state’s cities and nearly one-third of the towns in the state have adopted some kind of local boating ordinance. Over one-fifth of all counties and more than one-tenth of all villages have done so. Roughly four percent of the state’s lake and sanitary districts have adopted a local boating ordinance.⁵ Clearly, many local jurisdictions of all kinds across Wisconsin have seen fit to pass local boating regulations.

⁴ The total number of ordinances in the third column is higher than the total of 531 ordinances because a few of the ordinances were adopted jointly by two or more units of government and thus counted more than once. For example, two towns—or a town and a neighboring village or city—adjoining the same lake might jointly adopt the same ordinance so that the entire lake would be covered by the same regulations.

⁵ The proportion of lakes in the state both covered by a district and also by a local boating ordinance is likely higher than 4%. On those lakes where there is a district, but it is not the unit of government that passed the ordinance(s) covering the lake, the district may well have played a role in advocating for regulations and worked in partnership with another government unit to see it passed. Not all local units of government that are overlapped by lake districts are willing to delegate the authority to enact (and enforce) local regulations to districts, a requirement under the law in order for districts to have such authority. Nor do all lake districts desire to exercise their potential authority to enact (and enforce) local regulations, even if overlapping units would be willing to delegate such authority.

How many lakes are covered by local boating ordinances?

All navigable waters in the state are governed by the *state's* boating regulations. Local units of government can adopt their own rules as long as they are more restrictive than the state's. It is difficult to estimate the number of lakes covered by the inventoried local ordinances. The best estimate, based on this somewhat limited data set, is that approximately 900 of the state's roughly 15,000 lakes are covered by the 531 local ordinances in the database. Adding in rivers and streams that are the subject of the inventoried ordinances, it is estimated that local ordinances cover at least 1,400 distinct water bodies. These numbers include lakes and other waters covered by local ordinances which adopt *only* the State's boating regulations.

Of the roughly 2,100 lakes in the state with surface areas over 50 acres, it appears that approximately 428 (roughly one-fifth) of them are covered by local boating regulations. A handful of those are covered by local ordinances that adopt only the State's boating regulations.

Chart 1: Number of Lakes Covered by Local Ordinances, by Lake Size

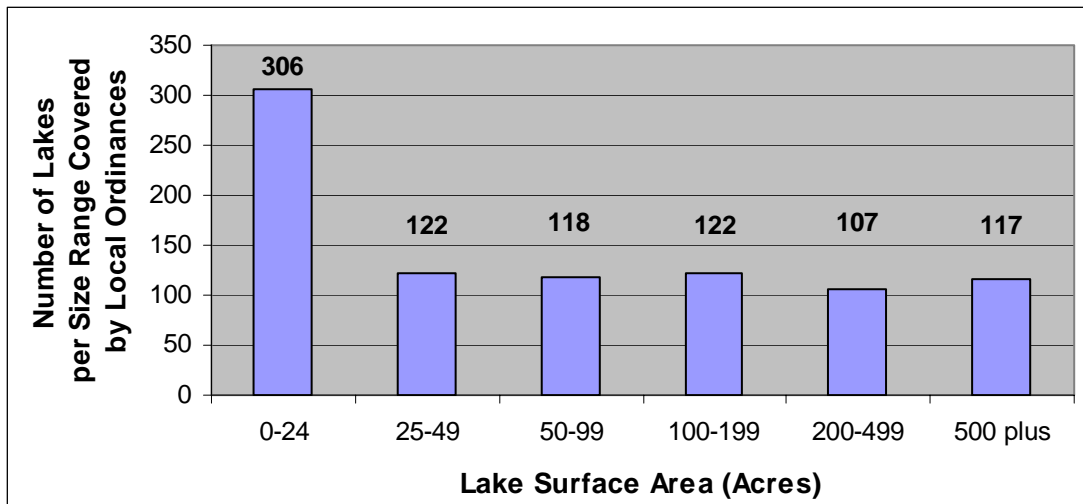
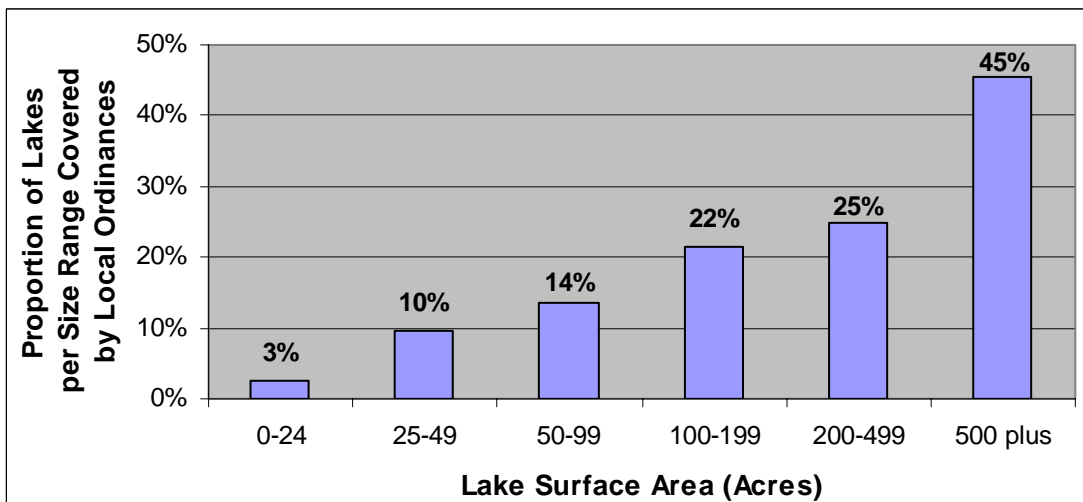


Chart 2: Proportion of Lakes Covered by Local Ordinances, by Lake Size



Statewide trends in local boating regulation

This inventory and assessment show that many local units of government in Wisconsin continue, as they have for over 45 years, to see fit to exercise their state-delegated authority to enact local regulations on boating and recreational surface water use, as local conditions and political will dictate. The most common kinds of local ordinances include those that restrict high speed boating and/or water skiing in certain areas on lakes and rivers and/or during certain times of the day or week. Also, many ordinances place speed limits on boats and other watercraft, and a significant number of ordinances (nearly 60, covering at least that many lakes) actually prohibit motorboat use on the water bodies they cover.

It seems that the potential for conflict, either among different kinds of recreational lake users or between certain kinds of recreational lake use and the ecology of our lakes, provides an impetus for local action to enact many of the local ordinances passed across the state. As shoreland development and recreational pressures on Wisconsin's lakes persist, these issues are unlikely to go away. Thus, local boating regulation will likely continue apace in the coming years.

Next steps

The Department's Bureau of Law Enforcement will undertake efforts to keep the local boating ordinance database up-to-date as new lake use ordinances are submitted, reviewed, and filed. Intended users of the database there would be central office Law Enforcement staff and regional wardens.

The Department's Lakes Program staff intend to connect the ordinance data with other lake databases, so that ordinances can be sought out by lake, or by municipality or county, or by type, in searches initiated by a variety of users, possibly including Department staff, partner organizations such as the Wisconsin Association of Lakes and University of Wisconsin-Extension, and/or the general public.

The Wisconsin Association of Lakes receives regular inquiries from local lake group and municipal leaders seeking guidance through the process to enact local boating regulations as they endeavor to better protect their lakes at the local level. We intend to use the database inventory to provide those people with examples from other localities and to connect them with peers who may be of additional assistance through those processes.