

Local Regulation of Hazardous Wakes Workshop

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CONSIDERATIONS IN CREATING A HAZARDOUS WAKE ORDINANCE IN WISCONSIN TOWNS

May municipal governments in Wisconsin regulate the use and operation of boats?—

Yes. See Wisconsin Stat 30.77(3) which reads:

(3) ORDINANCES.

(a) Except as provided in par. (ab), any town, village, or city may, in the interest of public health, safety, or welfare, including the public's interest in preserving the state's natural resources, enact ordinances applicable on any waters of this state within its jurisdiction if the ordinances are not contrary to or inconsistent with this chapter and if the ordinances relate to the equipment, use, or operation of boats or to any activity regulated by ss. 30.60 to 30.71.

May County governments in Wisconsin regulate the use and operation of boats?—

County governments have no authority to regulate the use and operation of boats on lakes. Counties may in some circumstances regulate rivers and streams within their boundaries. See Wisconsin Statutes 30.77(3)(b).

We strongly recommend a careful reading of the Nov 2019 DNR Manual “A Guideline for Creating Local Boating Ordinances and Placing Waterway Markers in Wisconsin Waters”

This an indispensable resource for anyone wishing to craft a local ordinance re boating.

Regulate specific uses of boats, not the boats themselves-- Wisconsin law generally does not permit a regulation forbidding any and all use of a type of boat. However, certain forms of use can be regulated. For example, legal precedent indicates a town can't forbid all use of a wake surf boat. But you can regulate distance from shore, depth of operation or size of lake. It is our position that any and all “bow high” operation to enhance waves can be regulated. (see Mequon and Rhine ordinances)

DNR Review—Wisconsin law mandates that all proposed town/village ordinances regulating watercraft be submitted to the DNR for advisory review no less than 60 days prior to enactment. See WI Stat 30.77(3)(d). Include a condition report. See “A Guideline for Creating Local Boating Ordinances and Placing Waterway Markers in Wisconsin Waters” (WI DNR Aug 2019)

How do I go About Drafting an Ordinance—Consider ordinances already in place and proven. The following towns and cities have hazardous wake ordinances: Mequon, Thiensville, Rhine, and the following four Sawyer County towns: Hunter, Round Lake, Bass Lake, Hayward. Consider also the model ordinance created by the Last Wilderness Alliance, based on the Mequon and Rhine ordinances.

Condition report—The DNR requests that a “condition report” accompany each ordinance submitted for review. Prepare and submit a condition report. They need not be elaborate. See the previously cited “A Guideline for Creating Local Boating Ordinances...” (DNR 2019)

Provide final ordinance to the DNR—Once the ordinance is enacted by the Town Board, provide a copy of the final signed ordinance to the DNR.

Post ordinance at public landings— This is very important. See Wisconsin Stat 30.77 (4). See previously cited “*A Guideline for Creating Local Boating Ordinances...*” (DNR 2019)

Regulating boats on lakes including a town boundary-- Regulating watercraft use on lakes extending into two or more towns involves special requirements. See for example WI Stat 30.77(3)(aw). See the ordinance enacted by the Town of Rhine, covering Crystal Lake, which extends into both Rhine and Plymouth Townships.

Consider Whereas Provisions at the outset of the Ordinance. The statute empowering Wisconsin towns, cities and villages to regulate boating specifies that regulation may be done “*in the interest of public health, safety or welfare, which includes the public's interest in preserving the state's natural resources.*” It is recommended that the Ordinance specify, the findings of the enacting municipality within the scope of “public health, safety and welfare...” This can be done through a series of “whereas provisions,” such as “Whereas artificially enhanced wakes can endanger swimmers, anglers and other watercraft.” See the Rhine ordinance for a good example of appropriate whereas provisions.

Consider a “carve out” for water skiing, tubing etc-- Our experience is that opponents will make the argument “This forbids our training young skiers at transition speed.” Consider parrying this by including a provision carving out skiing, tubing etc, provided it is not done with deployed ballast or fins. See the LWA model ordinance for a sample provision.

Consider enforceability-- It is important to consider enforceability in drafting an ordinance. For example, any ordinance quantifying wave height (e.g., forbidding wakes over 30”) will create defense avenues for opponents (e.g. “You can't prove the wake height was 30”). Standards that are more qualitative (use of ballast tanks, use of external vanes or fins, bow high operation, transition speed operation) will often be easier to prove in an enforcement action than some seemingly precise standard (forbidding wakes over 30” high).

Self-enforcement-- Every town enacting a hazardous wake ordinance has experienced that the ordinance is self-enforcing. 95% of folks will honor the ordinance.

Enforcement—Most enforcement will be unnecessary. The vast majority of wake boat owners will self-enforce, taking their boats to other, larger lakes more suitable for wake surfing. But for scofflaws, in most instances a simple caution without issuing a ticket will do the trick.

- The Township of Rhine reports that in the two years since enactment of their ordinance, there was only a single violation, by an out of state person unfamiliar with the law. On being given a warning, they immediately stopped.
- The four townships in Sawyer County forbidding hazardous wakes within 700' of shore have had no enforcement issues. Simple cautions have done the trick.

Penalty Provision-- A model penalty provision is given in the DNR Manual See “*A Guideline for Creating Local Boating Ordinances and Placing Waterway Markers in Wisconsin Waters*” (WI DNR Aug 2019). And this penalty provision has been included exactly as is in most of the Town ordinances regarding hazardous wakes. But it appears this may be insufficient... as there is no Wisconsin statute corresponding to the recommended local ordinance, it seems the local ordinance must include a penalty provision specific to it. See our model ordinance for one way of dealing with resolving this apparent gap.

Threats of suit-- Be prepared for threats of "I'll sue!" Where hazardous wake ordinances have been enacted or proposed, there will typically be threats of litigation. It is a hard fact of life in the US that our litigation culture causes people to use threats of suit to bully opponents. But take comfort, when folks rely on "I'll sue!" it is because they don't have a better argument.

- Each town in Wisconsin that has enacted a hazardous wake ordinance has been threatened with a suit. In no instance has any suit been brought.
- It is beyond dispute that Wisconsin Towns have the right to enact boating ordinances, provided they are not in conflict with state law. These laws have a strong presumption of validity.
- It is very well established in Wisconsin law that town can enact ordinances more strict than state law. For example, Presque Isle has a 200' "slow no-wake" ordinance, while state law specifies 100' "slow no-wake"

Can "Direct Legislation" be used to enact hazardous wake ordinances in Wisconsin--

Where a local government will not enact a hazardous wake regulation, Direct Legislation can be used to require the local government to enact an ordinance or place it on the next ballot for public referendum. There are certain restrictions and a detailed treatment of this is beyond the scope of this short briefing paper. One key issue is whether Direct Legislation can be used in Towns that have adopted (as opposed to Villages and Cities) in Wisconsin. This issue is currently on appeal in Wisconsin in the case of *Meesmann v. Presque Isle*, regarding the use of Direct Legislation in the Town of Presque Isle (Vilas County) to attempt to get the town board to enact a hazardous wake ordinance. Further information is available at lastwildernessalliance.org

Why not wait for action at the state level-- Considerable effort is being given to getting action from the State of Wisconsin or the DNR. However, it is likely that any action at the state level will be long coming and is not likely to be strong enough to protect our more fragile lakes and fully protect public safety. Action at the local level can be tailored to local conditions and can be completed more rapidly in many cases.

Formatting the ordinance-- Consider formatting the ordinance to be consistent with other recent ordinances of the Town.

Town of Rhine, Sheboygan County, Wisconsin

**AN ORDINANCE CREATING 5.12 OF
THE TOWN OF RHINE MUNICIPAL CODE
RESTRICTING ARTIFICIAL WAKE-ENHANCEMENT ON CRYSTAL LAKE**

WHEREAS, in the interest of public health, safety, or welfare, including the public's interest in preserving the state's natural resources, the Town of Rhine has the authority to enact ordinances applicable to waters within its jurisdiction if the ordinances are not contrary to or inconsistent with Chapter 30, Wis. Stats., and they relate to the equipment, use, or operation of boats or to any activity regulated by ss. 30.60 to 30.71, Wis. Stats.; and

WHEREAS, there exists within the Town of Rhine and the Town of Plymouth, Sheboygan County, Wisconsin, an inland lake known as Crystal Lake; and

WHEREAS, at least 60 percent of the footage of Crystal Lake's shoreline is within the boundary of the Town of Rhine; and

WHEREAS, the Town Board had determined that artificially enhanced wakes cause environmental damage to lakes and lakeshore, including resuspension of sediment which adds nutrients to the water and possible increased algal blooms, nearshore turbidity, shoreline erosion, and threats to aquatic life and waterfowl; and

WHEREAS, the Town Board had determined that boats with ballast systems increase the probability of aquatic invasive species; and

WHEREAS, the Town Board had determined that artificially enhanced wakes cause physical damage to riparian properties, including damage to shoreline, rip-rap, trees, natural buffers, docks and boatlifts; and

WHEREAS, the Town Board had determined that artificially enhanced wakes cause dangerous conditions on shore and on docks as well as dangerous water conditions for swimmers, anglers and other watercraft; and

WHEREAS, the Town Board had determined that the use of ballast causes a boat to be operated in an unsafe manner by causing the bow to rise and obscuring vision forward; and

WHEREAS, the Town of Rhine submitted a draft of this ordinance to the Wisconsin Department of Natural Resources for its advisory review at least 60 days to passage, pursuant to s. 30.77(3)(d), Wis. Stats.; and

WHEREAS, the Town of Rhine provided notice and conducted the necessary public hearing as required by s. 30.77(3)(aw), Wis. Stats.; and

WHEREAS, the Town Board, after taking into consideration public comments and any suggested changes of the DNR, determines that adopting the following boating regulations is consistent with the

intent of Section 5.01 of the Town of Rhine Municipal Code, and would promote the public health, safety and welfare, including the public's interest in preserving the state's natural resources;

NOW, THEREFORE, the Board of Supervisors of the Town of Rhine, Sheboygan County, Wisconsin, does hereby ordain as follows:

Section 1. Creating Code. Section 5.12 of the Town of Rhine Municipal Code is created to read as follows:

5.12 ARTIFICIAL WAKE ENHANCEMENT PROHIBITED ON CRYSTAL LAKE

(1) Prohibited Equipment. No person may use or employ on Crystal Lake water sacks, ballast tanks, submersible wings or any other device which causes a boat to operate in a bow-high manner, or which increases or enhances a boat's wake.

(2) Prohibited Operation. No person may operate a boat on Crystal Lake in an artificially bow-high manner in order to increase or enhance the boat's wake. Such prohibited operation shall include wake enhancement by use of ballast, mechanical hydrofoils, uneven loading or operation at transition speed (the speed at which the boat is operating at greater than slow-no-wake speed, but not fast enough so that the boat is planing).

Section 2. Amending Code. Section 5.06 of the Town of Rhine Municipal Code is amended in its entirety to read as follows:

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

Section 3. Severability. Should any portion of this Ordinance or the affected Code Section(s) be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 4. Effective Date. Upon adoption, this Ordinance shall take effect the day after publication or posting.

Enacted: April 13, 2021

TOWN OF RHINE

By: Ronald E. Platz
Ron Platz, Town Chair

CLERK'S CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Town of Rhine Board of Supervisors on the date indicated above.

Dated: 4-13-21, 2021 Leyann Hoogstra

COPY

Lexann Hoogstra, Clerk/Treasurer

Published/Posted on 5-7, 2021 by LN

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**CONDITION REPORT IN SUPPORT OF AN ORDINANCE CREATING
5.12 OF THE TOWN OF RHINE MUNICIPAL CODE
RESTRICTING ARTIFICIAL WAKE-ENHANCEMENT ON CRYSTAL LAKE**

Purpose: To identify the need and justification for the proposed ordinance.

**LOCAL CONDITIONS NECESSITATING THE REGULATION CHANGE AND
HOW THE NEW ORDINANCE WILL HELP SOLVE THE PROBLEM**

Current artificially-enhanced-wake conditions on Crystal Lake are unsafe to boaters and swimmers, damaging to properties, and detrimental to the ecosystem of the lake.

> In a survey of lake property owners, 27 respondents reported damage to piers, seawalls and shoreline.

> Emails from individual property owners report dangerous conditions for children, impact on the ecosystem, expensive damage to seawalls, and damage to the shoreline. (copies attached)

Groups who may be adversely affected by the proposed ordinance.

> The proposed ordinance would restrict the use of artificial means and boating equipment used to produce enhanced wakes. In essence, it would put restrictions on a few, extreme boating operations for the benefit and safety of all lake users and property owners. It would not restrict the use of boats of any size for water skiing, tubing and other lake fun.

> There are an estimated eight to ten boats owned by lake property owners that are capable of creating artificially-enhanced wakes. Although the proposed ordinance would restrict them from making enhanced wakes, it would not limit the use of their boats in any other way.

> Other boaters coming to the lake would be restricted from artificially enhancing wakes, but would not be restricted from using their boat on Crystal Lake.

Impact on safety, riparian properties and the lake ecosystem if the proposed regulation is not adopted.

> Enhanced waves will continue to erode the shoreline, rip-rap, trees and natural buffers.

> Kayaks, canoes and paddle boards will continue to be at risk of capsizing from the impact of unexpected enhanced waves with energy that's up to four times that of unenhanced waves.

> The lake bed will continue to be turned upside down by enhanced waves that reportedly go 16+ feet below the surface.

> Retaining walls, piers, boats and lifts will continue to be damaged, requiring expensive repairs.

> Unsuspecting children playing along the shoreline will continue to be at risk of being toppled unexpectedly by enhanced waves.

- > Resuspension of sediment will continue, adding nutrients to the water which can lead to increased algae blooms.
- > Nearshore turbidity will increase.
- > Aquatic life and waterfowl will be threatened.
- > Probability of aquatic invasive species will increase through ballast system transmittal.
- > Property values will diminish and the tax base will shrink.
- > Dangerous water conditions will persist for swimmers, fishermen and other watercraft.
- > Obscured vision forward will continue for boaters as a result of ballast weighing down the stern, causing the bow to rise.

Arguments of the people opposed to the proposed ordinance.

- > Lake property owners and users should take personal responsibility to avoid safety hazards and take measures to prevent property damage created by enhanced wakes.
- > Boaters can self-regulate the negative impact of enhanced wakes. This was attempted last summer with little success.
- > Boating operations should not be regulated.

LOCAL CONDITIONS TO CONSIDER

Physical size of Crystal Lake

- > Crystal Lake is 120 acres in size and 61 feet deep, in one place.
- > A large area of the lake is 20 feet or less in depth, putting the lakebed in those areas within range of the disruptive, below-water energy and impact of enhanced wakes. (see topographical map)
- > The towed-water-sports industry recommends that wake-enhancing boats stay at least 200 feet away from shoreline, docks and other structures. If adhered to, this buffer area would reduce the wakeboating size of Crystal Lake by 50%, to just 56 acres, close to the state-mandated, no-wake-lake size of 50 acres. (see buffer zone map)

Boating Bottleneck

- > Due to Crystal Lake's limited size, boaters typically motor from end to end on the lake.
- > An island in the middle of the lake creates a bottleneck for boats motoring in this pattern.
- > Lake conditions become especially damaging and hazardous when boats creating enhanced wakes meet in the bottleneck area.

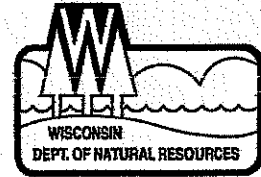
Why is the proposed ordinance in the public interest.

- > The elimination of artificially-enhanced wakes would help protect and preserve the safe enjoyment of the lake for everyone.

> The elimination of artificially-enhanced wakes would encourage the safe, recreational, public use of Crystal Lake by canoeists, paddle boarders, sailors, kayakers and swimmers.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



April 5, 2021

DNR ID# 1966
Town of Rhine
Sheboygan County

Bill Jacob
Town of Rhine
W5250 Cty Rd FF
Elkhart Lake, WI 53020

Subject: Crystal Lake Boating Ordinance Review

Dear Mr. Jacob:

Thank you for submitting the draft boating ordinance restricting artificial wake enhancement on Crystal Lake in the Town of Rhine, Sheboygan County.

Wisconsin Statute 30.77(3)(d) requires that local regulations pertaining to the equipment, use or operation of boats on inland lakes shall be subject to advisory review and shall be submitted to the Department at least 60 days prior to final action. The purpose of the ordinance advisory review is to evaluate the proposed ordinance and identify any inconsistencies within chapter 30.77. The review also serves to provide consideration for all citizens potentially impacted by the proposed ordinance and to give an opinion or suggest changes to the ordinance to ensure the public's right to recreate on Wisconsin's waterways are not significantly or unnecessarily impacted.

Upon review of the attached ordinance, we find it to be consistent with ss. 30.50 to 30.71 of the Wisconsin Statutes and the Department rules adopted to implement those sections.

As outlined in s. 30.77(4), Wis. Stats., no ordinance is valid until it is prominently posted at all access points within your jurisdiction and until a signed copy is received by this office including proof of publication.

The posting requirements of NR 5.15, Wis. Adm. Code are below:

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 one 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.

Should you have any questions regarding this review, please contact your Recreation Warden Jason Roberts at (262)-903-9399.

Sincerely,

Ryan Serwe

Ryan Serwe
Off-highway Vehicle Assistant Administrator
Division of Public Safety and Resource Protection

LOCAL ORDINANCE—CRYSTAL LAKE

PER T.RHINE CODE #5.12—NO PERSON MAY USE OR EMPLOY WATER SACKS, BALLAST TANKS, SUBMERSIBLE WINGS OR ANY OTHER DEVICE WHICH CAUSES A BOAT TO OPERATE IN A BOW-HIGH MANNER OR WHICH INCREASES OR ENHANCES A BOAT'S WAKE.

ALSO, NO PERSON MAY OPERATE A BOAT ON CRYSTAL LAKE IN AN ARTIFICIALLY BOW-HIGH MANNER IN ORDER TO INCREASE OR ENHANCE THE BOAT'S WAKE. SUCH PROHIBITED OPERATION SHALL INCLUDE WAKE ENHANCEMENT BY USE OF BALLAST, MECHANICAL HYDROFOILS, UNEVEN LOADING OR OPERATION AT TRANSITION SPEED.

Questions regarding Ordinance 5.12 of the town of Rhine Municipal code restricting artificial wake enhancement on Crystal Lake

Crystal Lake is a 129-acre lake located in Sheboygan County. It has a maximum depth of 61 feet. It has a mean depth of 20 feet. The bottom of the lake is 10% sand, 80% gravel, 0% rock and 10% muck. Visitors have access to the lake from a public boat landing. Fish include Panfish, Largemouth Bass, Northern Pike and Walleye.

Crystal Lake has invasive species including Chinese mystery snail, Eurasian water milfoil and zebra mussel.

Below is a list of questions and responses by the Rhine Town Board.

1. Crystal Lake extends slightly into another township. Did both townships enact identical ordinances?
 - a. Answer: The adjoining township had just a sliver of Crystal Lake and did not enact an ordinance. Under Wisconsin Law if 60% of the lake was in the township of Rhine, the town could act alone.
2. Were any lawsuits filed or threatened regarding this ordinance?
 - a. Answer: No lawsuit was ever filed, but when the ordinance was being debated there were threats. All of the threats came from out of state people.
3. Was wake surfing common on Crystal Lake before the ordinance?
 - a. Answer: Yes, it was common. Initially there were just a few but eventually there were 8 to 10 wake boats on a lake of about 130 acres. The biggest issue was damage to shore and moored boats, but there were also complaints of safety issues.
4. Has any enforcement been required? Or has this largely been self-enforcing?
 - a. Answer: This is almost entirely self-enforced. The town of Rhine does contract with local law enforcement. There was one incident where a young person came from California and was wake surfing after the regulation was in place. They spoke with the person and he claimed he did not know about the ordinance. They issued a warning and also called the local law enforcement. It turns out the wake boat in use was not registered anywhere. So, the local law enforcement issued a citation and fine. In no other instance was any enforcement necessary. With this one exception, there has been no wake surfing on Crystal Lake since the passage of the ordinance.
5. Did the required DNR review result in any changes to the ordinance?
 - a. Answer: The DNR was pretty much hands off.
6. How was the ordinance drafted? (Aid from anyone outside Rhine for example)
 - a. Answer: No, mostly Bill Jacob, town supervisor, crafted the ordinance. The template for this ordinance was from the hazardous wake ordinance passed in Mequon, Wisconsin (2010).

7. Was there much debate in Town Board meetings regarding the ordinance?
 - a. Answer: Since the ordinance was adopted, there has not been much debate. The ordinance has been in place now for two boating seasons.
8. Was there any talk of adding provisions to the ordinance to carve out skiing and tubing?
 - a. Answer: No, but there were some objections from residents that did not understand that this ordinance does not restrict skiing or tubing.
9. It is interesting that of the many wake surfing environmental issues addressed in the "whereas" provisions, downward prop wash into the lake bed is not directly mentioned. Was there any consideration of this harm? Many feel it is one of the principal problems of wake surfing.
 - a. Answer: Not on this ordinance.
10. Did any outside groups try to intervene in attempting to prevent this from passing-- say the Water Sports Industry Association or the Marine Manufacturers Association?
 - a. Answer: No
11. Was the public hearing well attended and did anything change as a result of the hearing?
 - a. Answer: A public hearing was conducted as required by 30.77, covering local ordinances applying to lakes extending between townships.
12. The way I read your ordinance, I can still use my wake surfing boat on Crystal Lake, but cannot use the features on that boat to enhance the wake. Do you have people on the lake in wake boats that comply with the Ordinance? I worry about the folks getting their wake boat on the lake and unloading their ballast tanks/bags just because they can. This is a threat of spreading invasive species.
 - a. Answer: 80 to 90 percent of the residential wake boats are still on the lake. They respect the ordinance and do not use the bladders, ballast tanks, flaps or operate in transition. Residents still water ski and tube.
13. Did all the members of the current and previous town board support this ordinance?
 - a. Answer: All members of the current town board supported and approved the ordinance. Another lake in the area, Little Elkhart (52 acres), requested that they be included in this ordinance.

END OF QUESTIONS

ORDINANCE NO. 2023-

Town of _____, _____ County, Wisconsin

AN ORDINANCE RESTRICTING CERTAIN ARTIFICIAL WAKE ENHANCEMENT

WHEREAS, in the interest of public health, safety, and/or welfare, including the public's interest in preserving natural resources, the Town of _____ ("Town") has the authority to enact ordinances covering waters within its jurisdiction if the ordinances are not contrary to or inconsistent with Chapter 30, Wis. Stats., and they relate to the equipment, use, or operation of boats or to any activity regulated by Sections. 30.60 to 30.71, Wis. Stats.; and

WHEREAS, there exist within the Town numerous lakes; and

WHEREAS, artificially enhanced wakes can cause environmental damage to lakes and lakeshore, including resuspension of sediment adding nutrients to the water and possible increased algal blooms, turbidity, shoreline erosion, and threats to aquatic life and waterfowl; and

WHEREAS, boats with ballast systems increase the likelihood of aquatic invasive species being introduced and spread on lakes; and

WHEREAS, artificially enhanced wakes can damage shoreline, lake bottom, moored boats, and shoreline structures including docks; and

WHEREAS, operating boats in a stern down manner creates downward prop wash, disturbing the lake bottom far below the wave zone, up to 20 feet below the surface; and

WHEREAS, artificially enhanced wakes can endanger swimmers, anglers, and other watercraft; and

WHEREAS, the use of ballast and wake enhancing fins can cause unsafe operation by causing the bow to rise obscuring vision forward; and

WHEREAS, the Town submitted a draft of this ordinance to the Wisconsin DNR for advisory review at least 60 days prior to passage, pursuant to 30.77(3)(d), Wis. Stats.; and

WHEREAS, the Town Board, after considering public comments and any DNR suggestions, determines that adopting this Ordinance is consistent with all other ordinances of the Town and would promote the public health, safety and welfare, including the public's interest in preserving natural resources;

NOW, THEREFORE, the Board of Supervisors of the Town of _____, _____ County, Wisconsin, does hereby ordain as follows:

Model ordinance for consideration by towns wishing to regulate hazardous wakes. Please be certain to carefully review and consider requesting review by counsel for the town.

Section 1. Applicability and Enforcement: The provisions of this ordinance shall apply to all waters within the Town of _____, _____ County, Wisconsin. This ordinance shall be enforced by all officers of _____, _____ County, Wisconsin and all other individuals empowered to enforce ordinances in this Town.

Section 2. Certain Artificial Wake Enhancement Prohibited

(1) **Prohibited Equipment.** No person may use or employ ballast tanks, water sacks or fins to cause a boat to operate in a bow-high manner, or which increases or enhances a boat's wake.

(2) **Prohibited Operation.** No person may operate a boat in an artificially bow-high manner having the effect of increasing the boat's wake. Such prohibited operation shall include wake enhancement by use of ballast tanks, or ballast bags, or mechanical fins, or continuous operation at transition speed (the speed below planing speed in which a boat is operating in plowing mode).

(3) **Certain Operations Excluded.** In no event shall any of the following operations be deemed a violation of this Ordinance, provided such operations do not use or employ ballast tanks, water sacks or wake enhancing fins: i) water skiing, ii) tubing, iii) brief transition operation to empty a boat of water, or iv) brief transition operation of a boat accelerating into a planing condition.

Section 3. Penalty.

(1) Wisconsin state boating penalties as found in s. 30.80, Wis. Stats., and deposits established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conferences, are hereby adopted by reference, except all references to fines are amended to forfeitures and all references to imprisonment are deleted.

(2) To the extent that the penalty for any violation of this Ordinance is not provided under Wisconsin state boating penalties as found in s. 30.80, Wis. Stats., any person violating this Ordinance shall forfeit \$500 for the first offense and shall forfeit \$1000 for the second offense within one year. Deposits established in the WISCONSIN CIRCUIT COURT FEE, FORFEITURE, FINE AND SURCHARGE TABLES shall also apply to any violation.

Section 4. Severability. Should any portion of this Ordinance or the affected Code Section(s) be held invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 5. Effective Date. Upon adoption, this Ordinance shall take effect the day after publication or posting.

Enacted: _____, 202_ TOWN OF _____

By _____

_____, Town Chair

Model ordinance for consideration by towns wishing to regulate hazardous wastes. Please be certain to carefully review and consider requesting review by counsel for the town.

CLERK'S CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Town of _____
Board of Supervisors on the date indicated above.

Dated: _____, 202_ _____

_____, Town Clerk

Published/Posted on _____, 202_ by _____.

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Existing Municipal Ordinances Addressing Magnified Boat Wakes

Municipality	Ordinance No.	Date	Waterbody	Summary
1. City of Mequon	2009-1281	2009	Milwaukee River	Prohibits any device to enhance wake Prohibits operation to enhance boat wake
2. Thiensville		2009	Milwaukee River	Prohibits any device to enhance wake Prohibits operation to enhance boat wake
3. Rockland	962-2012	2012	Long Lake	Prohibits any device to enhance wake Prohibits operation to enhance boat wake
4. Bass Lake	2018-10-08	2018	All waters	Prohibits enhanced wakes within 700ft of any shoreline
5. Round Lake	01-2020	2020	Tiger Cat Flowage	Prohibits enhanced wakes within 700ft of any shoreline
6. Hunter	2021-01	2021	All waters	Prohibits enhanced wakes within 700ft of any shoreline
7. Haywood	07-2021	2021	All waters	Prohibits enhanced wakes within 700ft of any shoreline
8. Rhine	5.12	2021	Crystal Lake	Prohibits any device to enhance wake Prohibits operation to enhance boat wake

Town of Rockland

Manitowoc County

DNR ID #962

RJL

APR 26 2012

ORDINANCE

61112

BANNING OF WAKE ENHANCING DEVICES

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

The Town Board of the Town of Rockland do ordain as follows:

Section I. Applicability and Enforcement

- (a) The provisions of this Ordinance shall apply to the waters of Long Lake.
- (b) This chapter shall be enforced by the officers of the Town of Rockland.

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. Bladder Boat, Ballast or Wakeboard Boat, or Wake Enhancing Devices

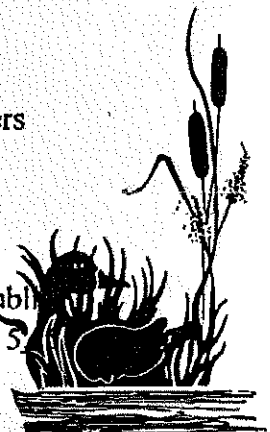
No person shall operate a Bladder, Ballast or Wakeboard Boat, either weighted, empty or full, or boat with Wake Enhancing Devices to create large wakes on the waters of Long Lake.

A Bladder, Ballast or Wakeboard Boat shall mean a monohull motorboat artificially filled with water, other liquid or other material in a cavity chamber ballast tanks designed to artificially hold water or other liquid on or within the motorboat or artificially weighted with foreign material on or in the monohull motorboat. Wake-enhancing devices shall mean, bladders, ballast tanks, wedges, hydrofoils or other hydraulic or mechanical devices, or un-even loading of persons, gear or foreign material, that alters the way a boat planes to create large wakes or artificially operate bow-high.

Section V. Posting Requirements

The Town of Rockland shall place and maintain a synopsis of the ordinance at all public access points within the jurisdiction of the Town pursuant to the requirements of NR 5 Wis. Admin. Code.

Collins Marsh Wildlife Area



Town of Rockland

Manitowoc County

Section VI. 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 Town 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 passage and the day after publication.

Passed the 11th day of JUNE, 2012.

RAWOALL BRANDES

Town of Rockland, Chairperson

R. O. Brandes

Signature of Chairperson

RECEIVED

JUN 11 2012

REC'D

APR 25 2012

Collins Marsh Wildlife Area



Links to useful information

- a) A link to "Helpful information from the DNR instruction manual" will be provided.

A Guideline for Creating Local Boating Ordinances and Placing Waterway Markers in Wisconsin Waters

<https://dnr.wi.gov/files/PDF/pubs/le/LE0317.pdf>

- b) Questions and answers; the email link will be provided for unanswered questions

<https://lastwildernessalliance.org/contact>

Water skiing doesn't destroy pristine lakes, but...

WAKESURFING? That's a whole new story!

The bow comes up and the stern goes down to increase the wake, so it's hard to see ahead.

3 to 4 foot high wakes are created so people can wakesurf, without a rope, like surfing in the ocean.

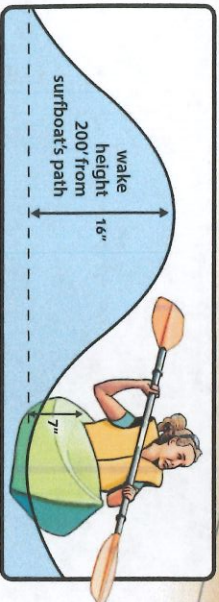
Algae blooms are fueled by nutrients freed from disturbed sediment. Some can kill fish and pets, and make people sick.

Fishermen have been knocked over, pontoons drenched, and small craft capsized by the massive wakes.

If fishermen, pleasure boaters, paddlers, and others can't enjoy our lakes, then tourism, property values and business income will plummet.

Loon nests are just inches above water in calm areas. Big wakes can destroy eggs.

Is the boating industry's 200 feet from shore rule enough?



Sediment is stirred up and plants are damaged 20 feet deep by the powerful motor and deep downward angled propeller.

Little fish live among the plants. Fewer little fish means fewer little fish for big game fish to eat.

Loons, otter and many fish can't see prey in murky water.

Ballast tanks don't drain completely and can bring invasives from other lakes.

Invasive plants spread easily in damaged areas.

Spiny waterfleas can upset the entire ecosystem, resulting in fewer game fish and murky water.

As the wake enters shallow water, plants are damaged, sediment is churned, and fish eggs can be destroyed.

When the big wake crashes on shore it can cause erosion and damage docks and moored boats.

How do they make those huge wakes?

- Add ballast water, up to 5000 pounds (600 gallons)
- Operate at speeds that bring the bow up and stern down
- Use wake enhancing fins
- The wake is 6 to 12 times more powerful than ski boat wakes!

- 16"** = Height of wake 200' from wakesurf boat's path (per industry)
- 7"** = Typical kayak freeboard
- 10"** = Typical canoe freeboard
- 12"** = Typical small fishing boat freeboard
- 9"** = Height of waves, 25 mph wind, 30 minutes, 1 mile wide lake

For More Information See: LastWildernessAlliance.org
Report dangerous boating at DNR's anonymous 24/7 hotline: 1-800-TIP-WDNR

Design, research: Carol Phillips • Layout: artefacts4u@gmail.com • Illustration: www.charlesjogdesignandillustration.com