

## STATUTES RELATING TO BOAT SPEED

Below are the statutory sections that relate to speed and boating.

30.66 is a state law and applies to all lakes, unless otherwise modified by a properly adopted ordinance by an entity with authority. Of course, it is difficult to regulate and enforce because it requires that someone is on the lake patrolling and sees the violation or can respond to a complaint in a timely manner.

30.77 is that statute that authorizes an entity to adopt its own ordinances. The language highlighted in Yellow gives authority to towns, villages and cities. Highlighted in Red gives authority to lake management districts. Highlighted in Gray to Sanitary Districts. Highlighted in Green to Counties.

Please note a county only has authority over rivers and streams.

Highlighted in Teal are the type of ordinance that can be enacted by the entities for the areas that they have jurisdiction and have followed the proper procedures.

### **30.66 Speed restrictions.**

**(1) SPEED TO BE REASONABLE AND PRUDENT.** No person shall operate a motorboat at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a motorboat shall be so controlled as to avoid colliding with any object lawfully in or on the water or with any person, boat or other conveyance in or on the water in compliance with legal requirements and exercising due care.

**(2) FIXED LIMITS.** In addition to complying with sub. (1), no person may operate a motorboat at a speed in excess of the posted notice as established by regulatory markers.

**(3) PROHIBITED OPERATION.**

**(a)** No person may operate a motorboat within 100 feet of any dock, raft, pier, or buoyed restricted area on any lake at a speed in excess of slow-no-wake.

**(ag)**

**1.** Except as provided in subd. 2., no person may operate a motorboat, other than a personal watercraft, at a speed in excess of slow-no-wake within 100 feet of the shoreline of any lake.

**2.** In its ordinances enacted under s. 30.77, a city, village, town, public inland lake protection and rehabilitation district, or a town sanitary district may provide an exemption from the prohibition in subd. 1. or may substitute a lesser number of feet.

**3.** This paragraph does not affect any of the following:

**a.** The authority of a local governmental unit specified in subd. 2. to enact more restrictive ordinances under s. 30.77.

**b.** The authority of the Dane County board to enact more restrictive ordinances under s. 33.455 (3).

**(ar)** No person may operate a personal watercraft at a speed in excess of slow-no-wake within 200 feet of the shoreline of any lake.

**(b)** No person may operate a personal watercraft at a speed in excess of slow-no-wake within 100 feet of any other boat.

(c) Paragraphs (a) to (b) do not apply to pickup or drop areas that are marked with regulatory markers and that are open to operators of personal watercraft and to persons and motorboats engaged in water skiing or similar activity.

**History:** 1973 c. 302; 1981 c. 303; 1991 a. 257; 1997 a. 198; 2009 a. 31.

**Cross-reference:** See also s. NR 5.001, Wis. adm. code.

### **30.77 Local regulation of boating.**

(1) LOCAL REGULATION PROHIBITED; EXCEPTIONS. Sections 30.50 to 30.71 shall be uniform in operation throughout the state. No municipality, public inland lake protection and rehabilitation district or town sanitary district may:

(a) Enact any ordinance or local regulation requiring local numbering, registration or licensing of boats or any ordinance or local regulation charging fees for inspection, except as provided in sub. (3) (e); or

(b) Except as provided in subs. (2) and (3), enact any ordinance or local regulation that in any manner excludes any boat from the free use of the waters of this state or that pertains to the use, operation or equipment of boats or which governs any activity regulated by ss. 30.50 to 30.71.

(2) ORDINANCES CONFORMING TO STATE LAW. Any municipality may enact ordinances which are in strict conformity with ss. 30.50 to 30.71 or rules of the department promulgated under those sections.

(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.

(ab) Any town, village, or city may enact an ordinance to prohibit a person operating a motorboat towing a person on water skis, aquaplane, or similar device without an observer, as provided in s. 30.69 (1) (a) 1., if all of the following apply:

1. The ordinance would apply to an inland lake within the jurisdiction of the town, village, or city that has a water safety patrol unit, as defined in s. 30.79.

2. The water safety patrol unit identified in subd. 1. biennially performs on the lake not less than 1,500 hours of enforcement or search and rescue activities, as determined by the department.

(ac) Except as provided under s. 33.455 (3) (b), no ordinance that pertains to the equipment, use or operation of a boat on an inland lake is valid unless one of the following occurs:

1. All towns, villages and cities having jurisdiction over the lake have enacted an identical ordinance.

2. At least 50 percent of the towns, villages and cities having jurisdiction over the lake have enacted an identical ordinance and at least 60 percent of the footage of shoreline of the lake is within the boundaries of these towns, villages and cities.

(ae) If a town, village or city proposes to amend or repeal an ordinance that it enacted under par. (ac), and if the amendment or repeal will result in less than 50 percent of the towns, villages or cities with jurisdiction over the lake still having in effect the current ordinance or if the amendment or repeal will result in less than 60 percent of the footage of shoreline of the lake being within the boundaries of the towns, villages and cities with the current ordinance still in effect, the town, village or city proposing the amendment or repeal shall hold a hearing on the issue at least 30 days before the amendment or repeal

will take effect and shall give notice as required under par. (aw) 2. If, after holding the hearing, the town, village or city amends or repeals the ordinance that it enacted under par. (ac), all of the identical ordinances are void.

**(am)**

**1.** A public inland lake protection and rehabilitation district may, in the interest of public health, safety or welfare, including the public's interest in preserving the state's natural resources, enact and enforce ordinances applicable to a lake entirely within its boundaries if one of the following occurs:

**a.** Each town, village and city having jurisdiction over the lake adopts a resolution authorizing the lake district to do so:

**b.** At least 50 percent of the towns, villages and cities having jurisdiction over the lake adopt resolutions authorizing the lake district to enact and enforce ordinances, and at least 60 percent of the footage of shoreline of the lake is within the boundaries of these towns, villages and cities.

**1m.** A town sanitary district may, in the interest of public health, safety or welfare, including the public's interest in preserving the state's natural resources, enact and enforce ordinances applicable to a lake if at least 60 percent of the footage of shoreline of the lake is within its boundaries, if no public inland lake protection and rehabilitation district has in effect any ordinances enacted under subd. 1. for the lake and if any one of the following occurs:

**a.** Each town, village and city having jurisdiction over the lake adopts a resolution authorizing the town sanitary district to do so.

**b.** At least 50 percent of the towns, villages and cities having jurisdiction over the lake adopt resolutions authorizing the town sanitary district to enact and enforce ordinances, and at least 60 percent of the footage of shoreline of the lake is within the boundaries of these towns, villages and cities.

**2.** An ordinance enacted under subd. 1. or 1m. may not be contrary to or inconsistent with this chapter and shall relate to the equipment, use or operation of boats or to an activity regulated by ss. 30.60 to 30.71.

**3.** If a public inland lake protection and rehabilitation district enacts an ordinance under this paragraph, the lake district ordinance supersedes all conflicting provisions of a town, village or city ordinance enacted under par. (a) that are applicable to the lake.

**3m.** If a town sanitary district enacts an ordinance under this paragraph, the town sanitary district ordinance supersedes all conflicting provisions of a town, village or city ordinance enacted under par. (a) that are applicable to the lake.

**3r.** If a public inland lake protection and rehabilitation district is created for an inland lake after a town sanitary district has enacted ordinances under subd. 1m. for the lake, any ordinances enacted by the public inland lake protection and rehabilitation district supersede all of the following:

**a.** Any conflicting provisions of a town, village or city ordinance enacted under par. (a) that are applicable to the lake.

**b.** Any conflicting provisions of a town sanitary district ordinance enacted under subd. 1m. that are applicable to the lake.

**4.** If a town, village or city proposes to rescind a resolution that it adopted under subd. 1. or 1m., and if the rescission will result in less than 50 percent of the towns, villages or cities with jurisdiction over the lake still having in effect resolutions adopted under subd. 1. or 1m. or will result in less than 60 percent of the footage of shoreline of the lake being within the boundaries of the towns, villages and cities with resolutions still in effect, the town, village or city proposing to rescind the resolution shall hold a hearing on the rescission at least 30 days before the rescission will take effect and shall give notice as required under par. (aw) 2. If, after holding the hearing, the town, village or city rescinds the resolution that it adopted

under subd. 1. or 1m., the public inland lake protection and rehabilitation district ordinances or the town sanitary district ordinances are void.

**(aw)**

1. If one or more towns, villages or cities propose to enact an ordinance for an inland lake under par. (ac) 2. or a public inland lake protection and rehabilitation district or town sanitary district proposes to enact an ordinance for an inland lake under par. (am) 1. b. or 1m. b., it shall hold a public hearing on the proposed ordinance at least 30 days before its enactment.

2. The town, village or city that has the most footage of shoreline of the lake within its boundaries and that is supporting the proposal shall publish a notice of the public hearing under subd. 1. or par. (ae) or (am) 4. at least 30 days before the date of the hearing in one or more newspapers likely to give notice of the hearing in all towns, villages or cities that have jurisdiction over the lake. The notice shall be a class 1 notice under ch. 985. The town, village or city publishing the notice shall send a copy of the notice at least 30 days before the date of the hearing to the department, each municipality having jurisdiction over the lake and each lake association for the lake.

**(b)** Any county may, in the interest of public health, safety or welfare, including the public's interest in preserving the state's natural resources, enact an ordinance applicable on any river or stream within its jurisdiction if the ordinance is not contrary to or inconsistent with this chapter, and if the ordinance relates to the equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.71. If a county enacts an ordinance under this paragraph, the county ordinance supersedes all provisions of a town, village or city ordinance enacted under par. (a) that is inconsistent with the county ordinance.

(c) If any county operates any marina development adjacent to any waters of this state, the authority conferred upon any town, village or city under par. (a) shall exclusively vest in the county in respect to enactment of local ordinances that relate to the development, operation and use of the marina facility and its adjoining waters.

**(cm)** In enacting ordinances under par. (a), (ab), (am), or (b) for a given body of water, municipalities and public inland lake protection and rehabilitation districts shall take into account factors that include all of the following:

1. The type, size, shape and depth of the body of water and any features of special environmental significance that the body of water has.

2. The amount, type and speed of boating traffic on the body of water and boating safety and congestion.

3. The degree to which the boating traffic on the body of water affects other recreational uses and the public's health, safety and welfare, including the public's interest in preserving the state's natural resources.

**(cr)** The types of ordinances that may be enacted under par. (a), (ab), (am), or (b) include the following:

1. Restrictions on speed.

2. Restrictions on certain types of boating activities on all, or in specified parts, of the lake, river or stream.

3. Restrictions on certain types of boating activities during specified hours of the day or specified days of the week.

4. Restrictions on the operation of a motorboat towing a person on water skis without an observer, as provided in s. 30.69 (1) (a) 1.

(d) Ordinances pertaining to the equipment, use or operation of boats on inland lakes shall be subject to advisory review by the department as provided under this paragraph. Proposed ordinances subject to

review under this paragraph shall be submitted by the local town, village or city clerk or by the public inland lake protection and rehabilitation district or town sanitary district to the department at least 60 days prior to final action thereon by the town, village, city or district governing body. Advisory reports regarding town, village, city, lake district or town sanitary district ordinances that regulate the equipment, use or operation of boats on inland lakes shall be based on consideration of the effect of the ordinance on the state from the standpoint of uniformity and enforcement and the effect of the ordinance on an affected town, village, city, lake district or town sanitary district in view of pertinent local conditions. Advisory reports shall state in what regard such ordinances are considered consistent or inconsistent with this chapter as to public health, safety or welfare, including the public's interest in preserving the state's natural resources, and shall be accompanied by suggested changes, if any. No later than 20 days after receipt by the department of proposed ordinances, the department shall advise the town, village, city, lake district or town sanitary district in writing as to the results of its advisory review under this paragraph. The department shall address the results sent to a town, village or city to its clerk.

**(dm)**

**1.** In this paragraph:

**a.** "Boating organization" means a nonstock corporation organized under ch. 181 whose primary purpose is to promote boating activities.

**b.** "Local entity" means a city, village, town, county, qualified lake association, nonprofit conservation organization, as defined in s. 23.0955 (1), town sanitary district, public inland lake protection and rehabilitation district, or another local governmental unit, as defined in s. 66.0131 (1) (a), that is established for the purpose of lake management.

**c.** "Qualified lake association" means an association that meets the qualifications under s. 281.68 (3m) (a).

**2.** If the department or a local entity objects to an ordinance enacted under par. (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the ordinance is contrary to or inconsistent with this chapter, the procedure under subd. 2r. shall apply.

**2g.** If a local entity or a boating organization objects to an ordinance enacted under par. (a) or (ab) that applies to a river or stream, or to an ordinance enacted under par. (b), on the grounds that all or a portion of the ordinance is not necessary for public health, safety, welfare, or the public's interest in preserving the state's natural resources, the procedure under subd. 2r. shall apply.

**2r.**

**a.** Upon receipt of an objection under subd. 2. or 2g., the department shall order a hearing on the objection under ch. 227. The hearing shall be a contested case hearing, and the administrator of the division of hearings and appeals in the department of administration shall assign a hearing examiner to the hearing as provided in s. 227.43. Persons who are not parties to the contested case may present testimony and evidence at the hearing.

**b.** The hearing examiner shall issue an order on the objection within 90 days after the date on which the hearing is ordered under subd. 2r. a.

**c.** For an objection under subd. 2., if the hearing examiner determines that the ordinance or the portion of the ordinance is contrary to or inconsistent with this chapter, the hearing examiner shall issue an order declaring the ordinance or that portion of the ordinance void. For an objection under subd. 2g., if the hearing examiner determines that the ordinance or the portion of the ordinance is not necessary for public health, safety, welfare or the public's interest in preserving the state's natural resources, the hearing examiner shall issue an order declaring the ordinance or that portion of the ordinance void. An order

issued under this subd. 2r. c. shall prohibit the enforcement of all or any portion of the ordinance declared to be void.

**3.** The procedure under this paragraph does not supersede any other legal right or procedure that a person has to contest an ordinance enacted under this section.

**(e)** Notwithstanding the prohibition in sub. (1) (b) against ordinances or local regulations that exclude any boat from the free use of the waters of the state:

**1.** A municipality, a public inland lake protection and rehabilitation district or a town sanitary district that has in effect an ordinance under par. (am) may charge boat operators reasonable fees for any of the following:

**a.** Use of a public boat launching facility that the municipality or lake district owns or operates.

**b.** The municipality's or district's costs for operating or maintaining a water safety patrol unit, as defined in s. 30.79 (1) (b) 2.

**c.** The municipality's or district's costs for providing other recreational boating services.

**2.** A town, village or city may enact ordinances to regulate the operation, equipment, use and inspection of those boats carrying passengers for hire that operate from a base within its jurisdiction and may charge reasonable fees for such inspection.

**(4) PUBLICIZING ORDINANCES.** All ordinances enacted under sub. (3) shall be prominently posted by the local authority which enacted them and, for ordinances enacted under sub. (3) (ac) 2., by all local authorities having jurisdiction over the lake, at all public access points within the local authority's jurisdiction and also shall be filed with the department.

**History:** 1973 c. 302; 1987 a. 99; 1989 a. 159, 324, 359; 1993 a. 167; 1995 a. 152, 349; 1997 a. 35; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16; 2017 a. 163.

**Cross-reference:** See also ss. NR 1.91, 5.15, and 5.19, Wis. adm. code.

Sub. (3) is an exception to sub. (2). A local ordinance prohibiting the operation of a motorboat on a lake on Sunday will not be held invalid pending determination of whether it is in the interest of public health or safety. *Menzer v. Elkhart Lake*, 51 Wis. 2d 70, 186 N.W.2d 290 (1971).

A village was authorized under ss. 30.77 (3) and 61.34 (1) to enact an ordinance that granted exclusive temporary use of a portion of a lake for a public water exhibition. *State v. Village of Lake Delton*, 93 Wis. 2d 78, 286 N.W.2d 622 (Ct. App. 1979).

Reasonable fees under sub. (3) (e) 1. are discussed. *Town of LaGrange v. Martin*, 169 Wis. 2d 482, 485 N.W.2d 287 (Ct. App. 1992).

Department of natural resources authority to insure free access to the state's waters implicitly extends to the shore and public access facilities. Ordinances limiting nonresident parking at boating facilities and prohibiting boat trailer parking on streets were invalid. *State v. Town of Linn*, 205 Wis. 2d 426, 556 N.W.2d 394 (Ct. App. 1996), 95-3242.

The delegation of authority to local governments to collect boater fees for miscellaneous "recreational boating services" under ss. 30.77 (3) (e) 1. c. and 33.475 is unconstitutional. 79 Atty. Gen. 185.