

THE IMPACT OF WAKE SURFING ON LAKES AND OTHER BOATERS ...

AND HOW TO DEAL WITH IT

**FOREST COUNTY ASSOCIATION OF LAKES-- OCT 10,
2026**

TOPICS

**WAKE SURFING CAUSES UNIQUE ENVIRONMENTAL/SAFETY
ISSUES**

**ONLY TOWN BOARDS CAN PROTECT LAKES AND LAKE
USERS • COUNTIES CANNOT... THE DNR CANNOT ... THE
STATE LIKELY WON'T**

95 WISCONSIN TOWNS HAVE ENHANCED WAKE ORDINANCES

**WAKE SURFING WILL INCREASE ON UNSUITABLE
LAKES, IF ALLOWED**

2

MY VIEWS

- **I BELIEVE THAT IF WAKE SURFING IS PERMITTED, IT SHOULD BE ONLY ON BIG DEEP LAKES, WITH APPROPRIATE DEPTH/DISTANCE CONTROLS ***
- **IF TOWNS DO NOT ACT, SOME SURFERS WILL USE LAKES**

**TOO SMALL OR SHALLOW... AND EVEN ON BIG DEEP LAKES
WILL OPERATE TOO NEAR SHORE OR IN WATER TOO
SHALLOW**

**• THIS TALK ADDRESSES REASONABLE SET OFFS... AND
WHAT TO DO WHEN LAKES ARE NOT BIG AND DEEP ENOUGH
FOR RESPONSIBLE WAKE SURFING**

*** BUT PLEASE ALWAYS KEEP IN MIND INVASIVES CONTROL FROM**

BALLAST WATER ³

WAKE SURFING OPERATION IS



UNIQUE BALLASTED STERN DOWN

**CONTINUOUS PLOWING
SPEED**

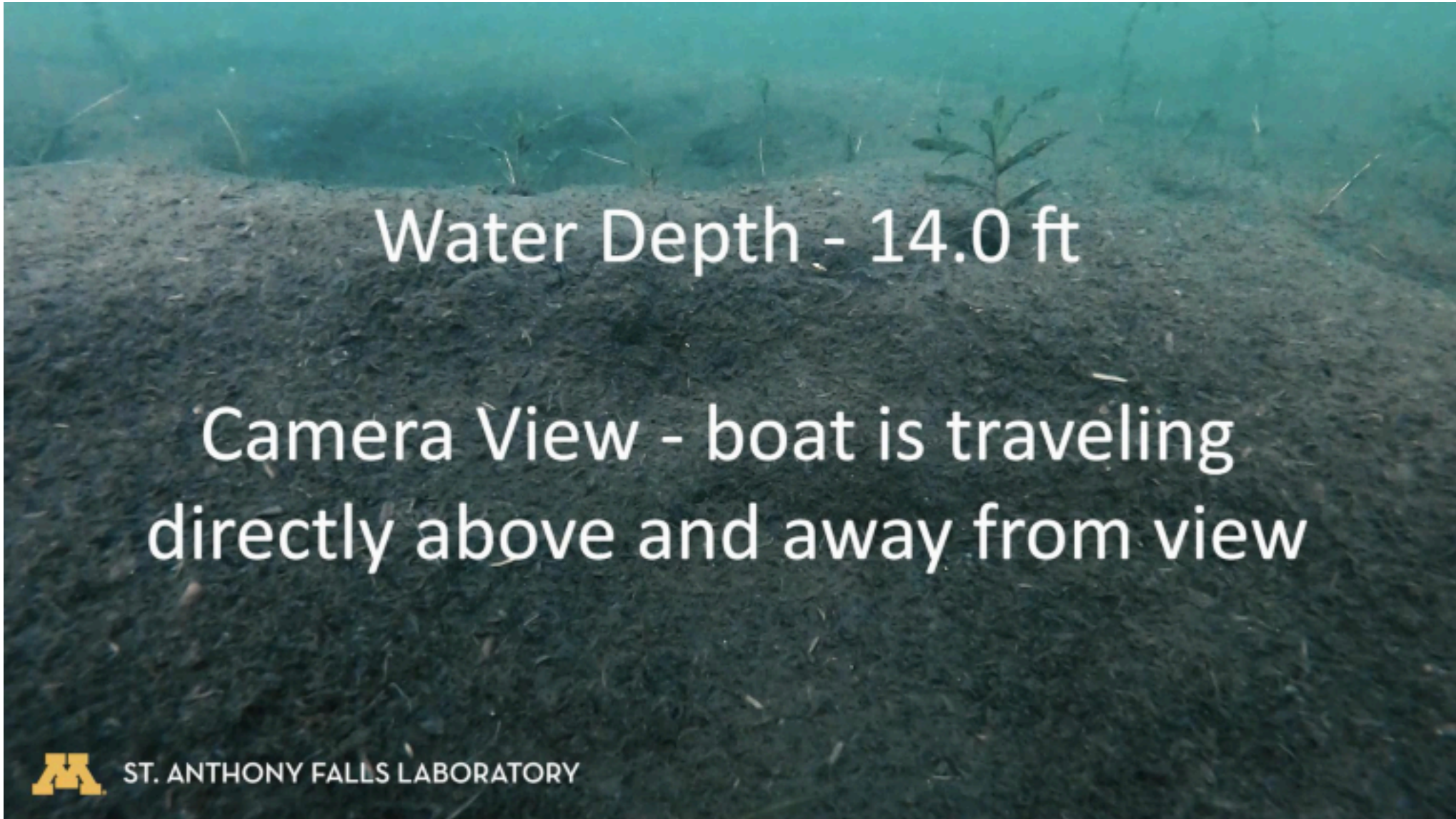
**POWERFUL DOWNWARD
PROP WASH**

ENORMOUS WAKE

BALLAST WATER TRANSFER



WAKE SURFING BLASTS LAKE BOTTOMS



Water Depth - 14.0 ft

Camera View - boat is traveling
directly above and away from view



ST. ANTHONY FALLS LABORATORY

7

WAKE BOAT PASS AT 200 FT-



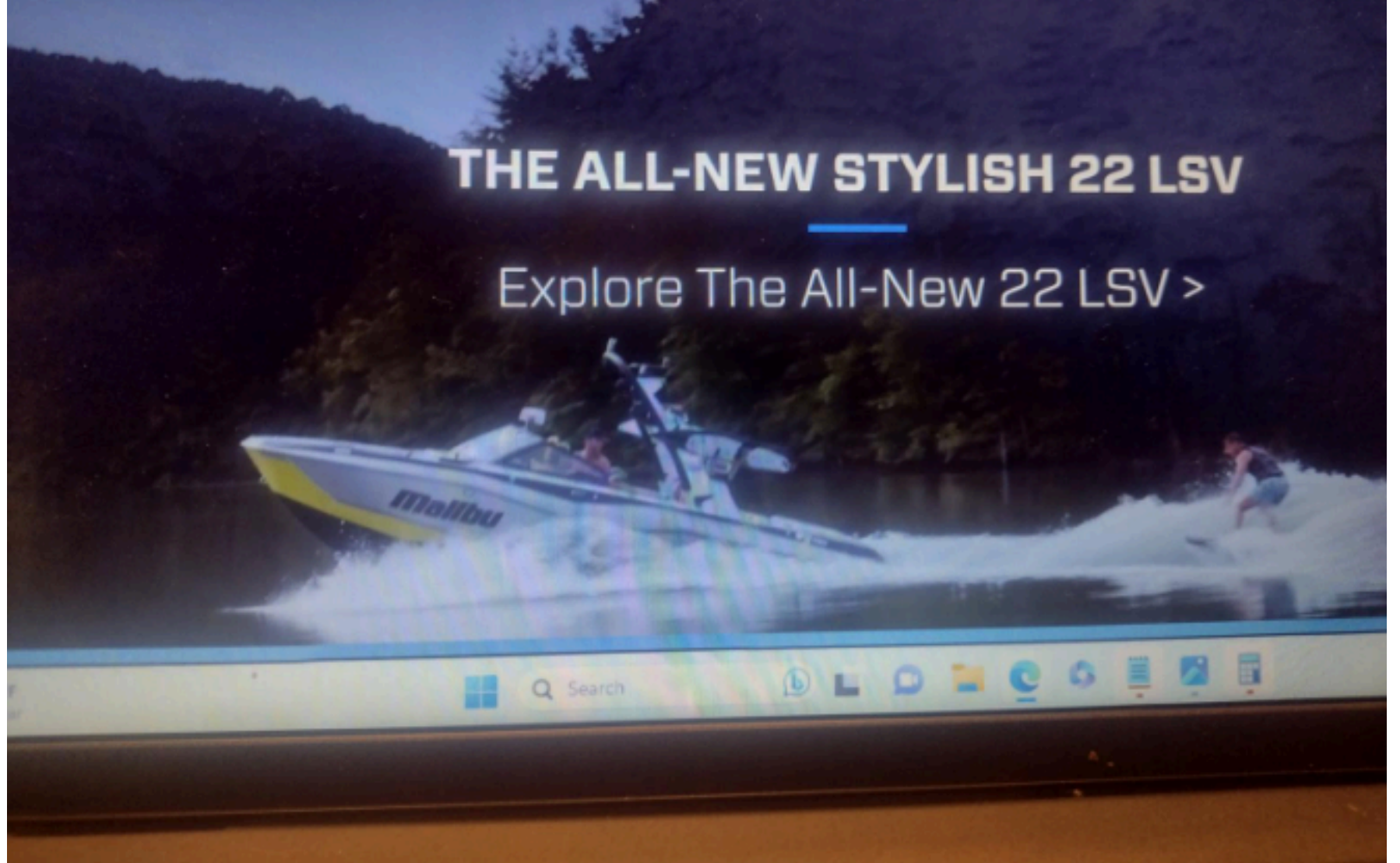
8

PROBLEMS OF WAKE SURFING

- **LAKE BOTTOMS SCoured TO 20+ FEET**
- **BIG WAVES SCRUB/ERODE SHORE AND NEAR-SHORE AREAS • INVASIVES TRANSFER BY BALLAST TANKS**
- **BIG WAVES DRIVE OTHER BOATERS OFF THE LAKE**
- **WAKE BOATS OPERATE 'BOW HIGH', RESTRICTING FORWARD VISION**

Even industry Websites Show Poor Forward Visibility

(from a video at
malibuboots.com)



CAN THIS DRIVER SEE DIRECTLY AHEAD?

11

WHAT WOULD THE NORTHWOODS BE WITHOUT LOONS?

Loon eggs are just inches above water, so loons build nests in areas sheltered from wind driven waves.

Eggs hatch in June - early July.

Big surf wakes wash over the nests, chilling or toppling the eggs.



**Young chicks are vulnerable
to large wakes.**

12

WHAT ARE MINIMUM RESTRICTIONS?

**IF THE LAKE LACKS SIZE/DEPTH TO SUPPORT AT LEAST 50
ACRES AT 700/25, PLEASE CONSIDER A PROHIBITION**

- BE CERTAIN TO CAREFULLY CONSIDER INVASIVES ISSUES IF YOU DO
DECIDE TO CONTINUE TO ALLOW WAKE SURFING**
- MANY MANUFACTURERS INSTRUCT BOAT OWNERS NOT TO RUN
BALLAST TANK PUMPS DRY, FOR FEAR OF DAMAGING THE PUMPS**

- WHILE NO ONE REMOVES A BOAT WITH FULL BALLAST TANKS... MANY OWNERS LEAVE SEVERAL GALLONS OF WATER IN EACH OF THE BALLAST TANKS ¹³

WHAT ABOUT THE THERMOCLINE AND TWO-STORY LAKES

- NO BOAT EXCEPT SURF BOATS DISTURBS WATER NEARLY SO DEEP
- MANY LAKE SCIENTISTS HAVE EXPRESSED CONCERN ABOUT IMPACTS ON THE THERMOCLINE AND TWO-STORY LAKES

- **THE SCIENCE IS UNCERTAIN. NO ONE KNOWS HOW GREAT AN IMPACT THERE IS**

14

**FOREST CO. HAS FEW LAKES BIG AND
DEEP ENOUGH FOR WAKE SURFING**

**FOREST CO. HAS MANY LAKES--- BUT FEW ARE
LARGE/DEEP ENOUGH FOR WAKE SURFING**

**SURFERS WILL COME TO YOUR LAKES IN INCREASING
NUMBERS EACH YEAR ... UNLESS YOU ESTABLISH
ORDINANCES**

**SURFERS LEASE RENTAL HOMES FOR SURFING ON
LAKES THEY DO NOT KNOW**

15

**WISCONSIN HAS NO STATE LAWS
SPECIFIC TO WAKE SURFING**

THERE ARE NO STATE LAWS SPECIFIC TO WAKE SURFING

**UNDER WISCONSIN LAW, IT IS PERFECTLY LAWFUL TO
WAKE SURF 100' FROM SHORE IN 5' OF WATER**

**STATE LAWS PROHIBIT TRANSFERRING BALLAST
WATER AND DUMPING ANTIFREEZE... BUT THE DNR
WON'T ENFORCE THEM**

STATE ACTION

VERMONT-- PROHIBITS WAKE SURFING UNLESS A LAKE HAS 100 ACRES THAT ARE OVER 500 FT FROM SHORE AND 20 FT DEEP

INDIANA-- PROHIBITS WAKE SURFING ON LAKES SMALLER THAN 300 ACRES

MAINE-- PROHIBITS WAKE SURFING UNLESS 15 FT DEEP AND 300 FT FROM SHORE

SOME SOUTHERN STATES -- WITH NO NATURAL LAKES HAVE ENACTED LAWS BASED ON THE “MODEL INDUSTRY BILL” WHICH PROVIDES ONLY 200’ PROTECTION AND NO DEPTH PROTECTION

NO WI WAKE SURFING LAW ON HORIZON

- **2023/24 LEGISLATURE -- THREE BILLS**

INTRODUCED • 2025/26 LEGISLATURE– THREE

BILLS INTRODUCED

- **IMPASSE BETWEEN INDUSTRY AND LAKE
ADVOCATES– PROGRESS UNLIKELY AT STATE
LEVEL IN NEAR FUTURE • THE INDUSTRY IS RICH...**

AND MAKES HUGE POLITICAL “DONATIONS”

18

**CERTAINTY IN PROTECTING
LAKES CAN ONLY COME FROM
TOWN BOARDS**

**WISCONSIN UNLIKELY TO REGULATE WAKE
SURFING ANYTIME SOON**

THE DNR HAS DONE NOTHING AND WILL DO

NOTHING

COUNTIES CANNOT REGULATE LAKES

• COUNTIES CAN PROTECT ONLY RIVERS AND

STREAMS 19

**MANY TOWNS HAVE PROTECTED THEIR
LAKES AND LAKE USERS**

**95 TOWN ORDINANCES NOW IN PLACE IN
WISCONSIN • 87 OF THESE ARE PROHIBITIONS**

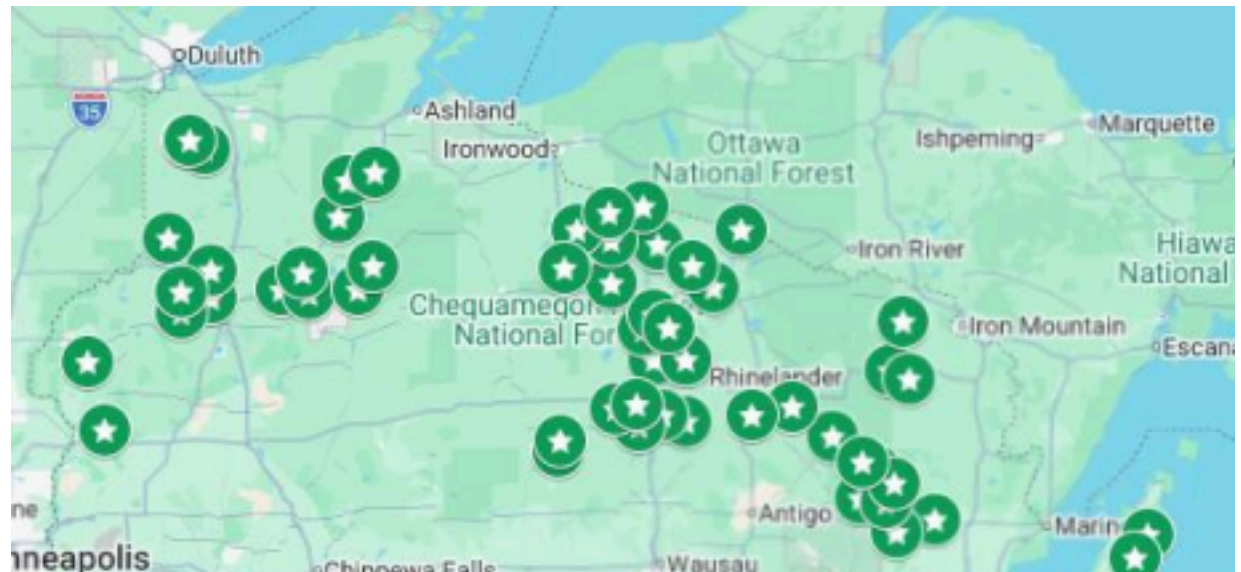
- THE REMAINING 8 RESTRICT DISTANCE FROM SHORE OR DEPTH • TYPICAL DEPTH RESTRICTION IS 700' FROM SHORE

EXISTING TOWN ORDINANCES COVER 425 LAKES

- 20% OF ALL WISCONSIN LAKES OVER 50 ACRES

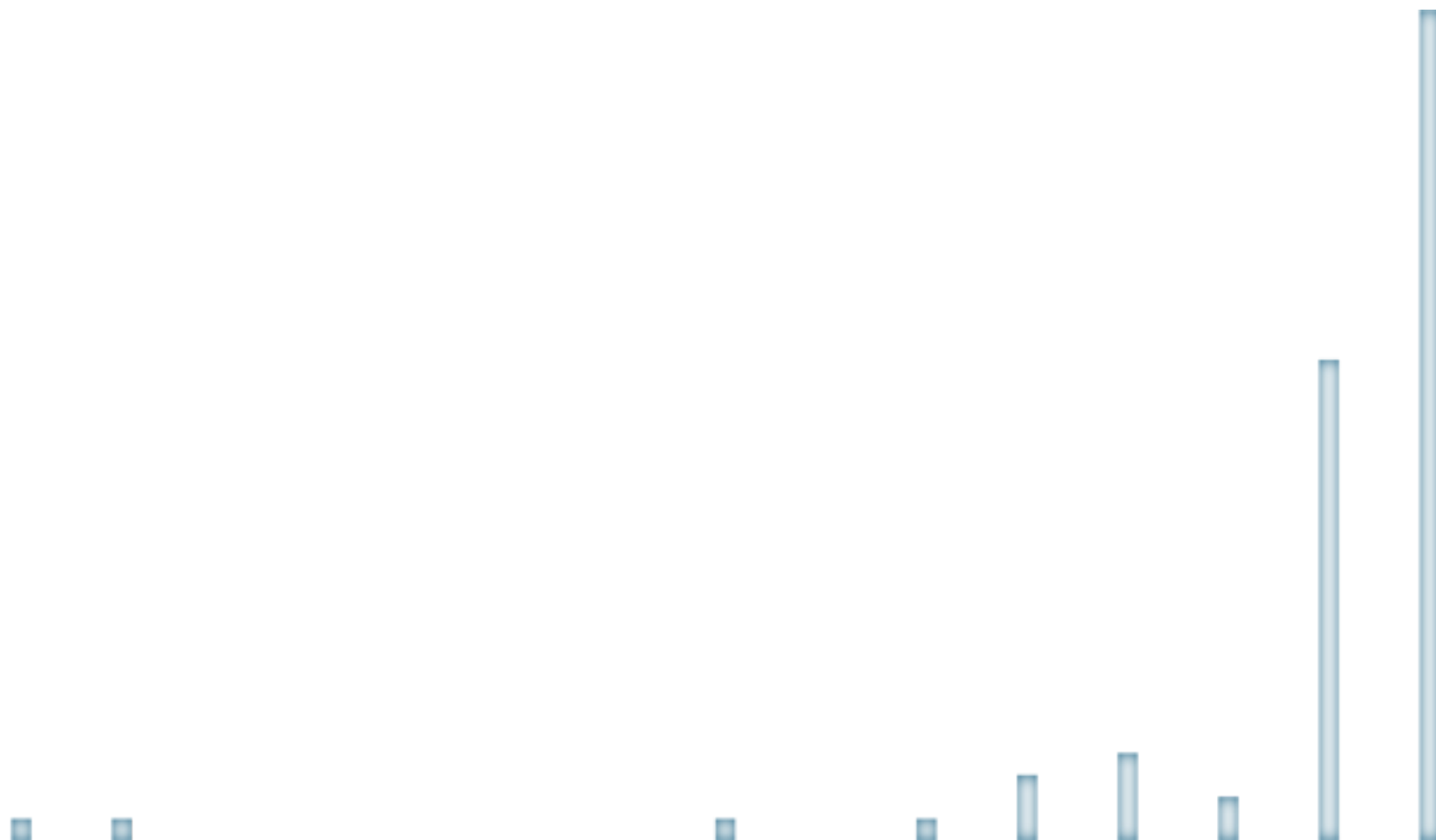
MANY MORE TOWNS ARE WORKING ORDINANCES ²⁰

95 TOWNS
HAVE
ORDINANCES



- **MANY OTHER TOWNS
IN PROCESS**
- **426 LAKES COVERED**

NUMBER OF WISCONSIN TOWNS



ENACTING ORDINANCES, BY YEAR

40

35

38



LOCAL ORDINANCES TO PROTECT LAKES

- EACH TOWN MUST DECIDE FOR ITSELF IF IT WANTS TO

ESTABLISH A TOWN ORDINANCE TO PROTECT ITS LAKES AND LAKE USERS

- MOST ORDINANCES FOLLOW A COMMON TEMPLATE •**

THE LAST WILDERNESS ALLIANCE PROVIDES FREE

ASSISTANCE

- THE LWA WAS INVOLVED IN 67 OF THE LAST 80
ORDINANCES ENACTED**

CREATING A TOWN ORDINANCE

REGULATING WAKE SURFING IS NOT DIFFICULT

- WISCONSIN LAW AUTHORIZES TOWNS TO REGULATE BOATING ON THEIR OWN LAKES AND RIVERS -- *WIS STAT 30.77(3)*
- TO PROTECT YOUR LAKES, IT WILL TAKE ACTION EITHER BY MADISON OR YOUR TOWNS
- DON'T COUNT ON MADISON
- NO ONE WILL EVER CARE AS MUCH ABOUT YOUR LAKES

THE PROCESS FOR SECURING AN ORDINANCE

- TOWN SETTLES ON WHAT TYPE OF ORDINANCE IT WANTS
- TOWN BOARD APPROVES DRAFT ORDINANCE AND 'CONDITION REPORT' AND SENDS TO DNR FOR 'ADVISORY REVIEW'
- DNR PROVIDES ADVISORY REVIEW LETTER

- **REQUIRED 60 DAY WAIT BEFORE A TOWN CAN ENACT ORDINANCE. MEASURED FROM SUBMISSION TO DNR**

25

**STANDARD TEMPLATE ORDINANCE IS
SIMPLE**

Section 2. Certain Artificial Wake Enhancement Prohibited

- (1) **Prohibited Equipment.** No person may use or employ ballast tanks, ballast bags 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 planing 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) wake boarding employing a tow rope; iv) brief transition operation to empty a boat of bilge water, or v) 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: _____, 2024 TOWN OF (Town Name Here)

By _____

_____, Town Chair

CLERK'S CERTIFICATE OF ENACTMENT

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

Dated: _____, 2024 (signature here) _____

_____, Town Clerk

ORDINANCE NO. 2024- ____

Town of (Town name here), _____ 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 exists within the Town multiple lakes; and

WHEREAS, artificially enhanced wakes can cause environmental damage to lakes and lakeshore, including resuspension of sediment adding nutrients to the water and increased risk of 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, 25 feet and more 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 (Town name here), _____ County, Wisconsin, does hereby ordain as follows:

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

ORDINANCE PROCESS HAS

ADDITIONAL REQUIREMENT FOR 'BORDER LAKES'

- **WHERE A LAKE SPANS A TOWN BORDER, ALL TOWNS WITH SHORELINE MUST ENACT AN IDENTICAL ORDINANCE**

OR

- **FOR A "TWO TOWN LAKE" ONE OF THE TOWNS MAY ACT ALONE, IF IT HAS AT LEAST 60% OF THE SHORELINE**

- BUT IN THIS INSTANCE, THERE MUST BE A PUBLIC HEARING 27

**ENFORCEMENT --- RARELY
NEEDED**

- WAKE SURFING PROHIBITIONS ARE RARELY VIOLATED
- THE ORDINANCE IS SIMPLE. VIOLATIONS ARE OBVIOUS. ALMOST ALL WAKE SURFERS RESPECT THE LAW

- **ACROSS ALL WISCONSIN, ONLY A FEW
INSTANCES OF ENFORCEMENT**

**BUT WHAT IF MY SMALL TOWN
CANNOT ENFORCE?**

- **SHOULD NOT DETER A TOWN FROM ENACTING AN ORDINANCE**
- **IMPORTANT FOR TOWNS TO ENACT IMPORTANT
ORDINANCES, TO EXPRESS THE SENSE OF THE
COMMUNITY REGARDING CONDUCT**
- **THIS IS THE “SOCIAL CONTRACT”--- PEOPLE CHOOSING**

**TO LIVE AND PLAY IN AN AREA ARE EXPECTED TO
FOLLOW THE RULES... EVEN IF LAW ENFORCEMENT IS
NOT AVAILABLE**

29

THREATS OF LITIGATION

TOWNS CONSIDERING AN ORDINANCE ARE OFTEN THREATENED

**ACROSS THE ENTIRE U.S. NO SUIT CHALLENGING A WAKE
SURFING ORDINANCE HAS SUCCEEDED**

**FOUR DECIDED LAWSUITS ACROSS THE U.S.— IN EACH OF
THEM, THE WAKE SURFERS LOST**

- TWO OF THE FOUR DECIDED CASES HAVE BEEN IN WISCONSIN. • THREE OF THE FOUR CASES WERE IN FEDERAL COURTS
- THE ONLY TWO REMAINING SUITS ARE BOTH IN WISCONSIN AND ARE BOTH UNDER PENDING MOTIONS TO DISMISS

30

LITIGATION IN WISCONSIN

WAKE SURFERS TRIED TO GET AN INJUNCTION IN MANITOWISH WATERS. IN AN AUG 2025 RULING, THE WAKE SURFERS LOST. THE COURT STATED:

- “... *this is not a ban on a boat ... this is a ban on activity that there is a rational basis for restricting.*” (p. 22)

- “... *this ordinance is tailored to the health, safety, and protection of the public and the environment.*” (p. 23)
- “*But these are ordinances that an average person can read and understand. So they [the Town] gave notice, and they [the ordinances] are rationally related to the objectives—the legitimate objectives. So the request for an injunction is denied, and the matter is closed.*” (pp. 23-24)

31

THERE ARE TWO REMAINING SUITS IN WISCONSIN, OUT OF 95 ORDINANCES

- **FOUR SUITS HAVE BEEN FILED IN WISCONSIN... SURFERS HAVE
ALREADY LOST THE FIRST TWO**

- EACH LIVE SUIT INVOLVE TOWNS WITH A LAKE OR CHAIN WITH AT LEAST +15 RESIDENT WAKE SURF BOATS
- BOTH SUITS ARE NOW SUBJECT TO “MOTIONS TO DISMISS’ AND SHOULD BE RULED ON BY JANUARY 2027, PERHAPS SOONER
- FOR TOWNS WORRIED ABOUT LITIGATION, LITIGATION IS VERY UNLIKELY
- EVERY TOWN SUED HAS HAD 100% OF THE COSTS COVERED BY ITS INSURANCE₃₂

SUMMARY

ONLY TOWN BOARDS CAN PROTECT YOUR LAKES

**THE DNR WILL DO NOTHING... THE COUNTY CANNOT
REGULATE LAKES... WISCONSIN MAY NEVER ESTABLISH
A LAW**

**TOWN BOARDS EXIST TO PROTECT THE 'HEALTH, SAFETY AND
WELFARE' ... AND TO PROTECT THE NATURAL RESOURCES OF
THE TOWN**

**IF TOWNS DO NOT ACT, WAKE SURFERS WILL COME TO
UNSUITABLE LAKES IN INCREASING NUMBERS**

RECOMMENDATION

- **THE VAST MAJORITY OF LAKES ARE TOO SMALL OR SHALLOW FOR WAKE SURFING... ON THESE, IT SHOULD NOT BE ALLOWED**
- **IF A TOWN DECIDES THAT WAKE SURFING ON A LAKE IS OK, IT SHOULD ENACT AN ORDINANCE CONTROLLING WHERE IT OCCURS**
- **IF A LAKE LACKS A LARGE AREA SATISFYING 25' DEEP AND 700' FROM SHORE, IT IS NOT BIG/DEEP ENOUGH FOR WAKE SURFING**
- **PLEASE PROTECT YOUR LAKES FROM INVASIVES**

**PLEASE PROTECT FOREST CO.
LAKES... THEY CAN'T PROTECT
THEMSELVES**

THANK YOU!



35

LAKE IN FOREST COUNTY (PARTIAL LIST)

LAKE ACREAGE Max Depth Ave Depth

Metonga Lake 2038 79

Pine Lake 1643 15 about 10 Far too shallow

Butternut Lake 1292 42

Pickeral Lake 1272 19 5 Far too shallow

Little Rice Lake 1201 10 Far too shallow

Lake Lucerne 1039 73 31

Franklin Lake 892 46 19

Wabicon Lake 513 15 Far too shallow

Birch lake 466 75

Scattered Rice Lake 428 10 Far too shallow

Lake Julia 404

Crane Lake 336 25 12 Insufficient deep water

Silver Lake 317 20 Far too shallow

Little Sand Lake 237 20 Far too shallow

Peshtigo Lake 147 4 Far too shallow

THE PUBLIC TRUST DOCTRINE

- PTD ALLOWS REGULATION TO PROTECT THE ENVIRONMENT AND OTHER BOATERS

Wisconsin Legislative Council

Anne Sappenfield
Director



TO: SENATOR MARY FELZKOWSKI

FROM: Anna Henning, Principal Attorney

RE: The Public Trust Doctrine and Wake Boat Regulations

DATE: December 6, 2023

You asked whether legislation to restrict wake boats' would be upheld if challenged under the Public Trust Doctrine. For reasons discussed below, the short answer is that such legislation would likely be upheld.

THE PUBLIC TRUST DOCTRINE

The Public Trust Doctrine is rooted in the Wisconsin Constitution. As developed and interpreted by the courts, the doctrine provides that navigable waters are held in trust by the state for the benefit of the public. The doctrine has been interpreted to require the Wisconsin Legislature to serve as trustee for the public's rights to navigate and enjoy recreational activities in the waters of the state.²

The Legislature has generally delegated its trustee obligations to the Department of Natural Resources (DNR), except where statutes state otherwise. Evidence of that delegation is found, in part, in ss. 281.11 and 281.12, Stats., which specify that the DNR "shall serve as the central unit of state government to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private," and "shall have general supervision and control over the waters of the state."³ In addition, the DNR is specifically authorized to pursue relief regarding possible infringements of public rights relating to navigable waters. [s. 30.03 (4)(a), Stats.]

- THIS MEMO EXAMINES A POTENTIAL SUIT AGAINST A WAKE SURFING ORDINANCE. IT CONCLUDES:

“A challenge under the Public Trust Doctrine would be relatively unlikely to succeed.”

37

INDUSTRY RESPONSE IN WISCONSIN

- INDUSTRY ATTEMPTS TO ELIMINATE KILL ‘LOCAL CONTROL’ IN 23/24 LEGISLATURE – DEFEATED
- INDUSTRY RECENTLY MADE HUGE “DONATIONS” TO

WISCONSIN LEGISLATURE

- THE INDUSTRY BILL INTRODUCED IN JANUARY 2026 PROVIDED FOR STATE STANDARD OF 300' FROM SHORE AND 300' FROM ALL OTHER BOATS... AND AGAIN TRIED TO KILL LOCAL CONTROL

38

**WHAT IS THE BASIS FOR INDUSTRY
POSITION ON 200' FROM SHORE AND 10'
DEEP?**

THE INDUSTRY CLAIMS ITS 200' RECOMMENDATION IS

**SUPPORTED BY THE GOUDEY AND FAY STUDIES... BUT
THESE WERE COMMISSIONED AND PAID FOR BY THE
INDUSTRY**

**THE INDUSTRY HAS ONE AND ONLY ONE
MOTIVATION– TO SELL AS MANY SURF BOATS AS IT
CAN**

SHOULD TOWNS ACCEPT THE INDUSTRY POSITION ?

3
9

**DO VOLUNTARY WAKE SURFING ZONES
WORK?**

OPTION FOR BIG LAKES WITH CENTRAL DEEP AREAS FAR FROM SHORE

BUT UNLESS THE ZONE IS AT LEAST 50 ACRES, SURFERS WILL STRAY. ZONE SHOULD EXCEED 100 ACRES FOR BEST HOPE OF COMPLIANCE

DOWNSIDES

- **ZONES DON'T WORK UNLESS LAKE IS BIG/DEEP ENOUGH FOR A BIG ZONE**
- **INVASIVES RISK FROM VISITING BALLASTED BOATS**
- **DEPENDS ON VOLUNTARY COMPLIANCE – MOST COMPLY... BUT**

