

Key milestones in Wisconsin's regulation of piers

<p>1848 Wisconsin admitted into the Union; Article IX, Section 1 of the Wisconsin Constitution provides that navigable waters belong to all citizens. They "shall be common highways and forever free..."</p>	<p>1871 State Supreme Court rules in Timm vs. Baer that waterfront property owner's use of navigable water must be reasonable. Reasonable use includes a right to a pier for navigation.</p>	<p>1933 State law requires all structures placed on the beds of navigable waters to get a permit.</p>	<p>1959 State law provides a pier can be placed in a navigable waterway without a permit provided it doesn't interfere with public rights in public waters. The State Constitution, laws, court cases have held that those public rights include, but are not limited to: boating, fishing & hunting, enjoying natural beauty & clean water & habitat protection.</p>	<p>1971 State Supreme Court reaffirms "reasonable use" doctrine as means of qualifying waterfront property owners' rights.</p>	<p>1981 DNR codifies first pier rules. Pier may extend to 3 foot depth of water or depth needed to moor boat and not need a permit. The rules didn't set other dimensions, but said piers must not harm boating, fishing & hunting, enjoying natural beauty & clean water & habitat protection.</p>	<p>1991 DNR issues Pier Planner brochure with dimensional guidelines to assure they met the "public rights" standards under the law to avoid needing a permit for their pier: a pier could be a max. of 6 feet wide, extend to 3 foot water depth or length needed to moor boat, and 2 slips for every 50 feet of frontage and 1 for every 50 feet thereafter. Larger piers could be placed with individual review and permit.</p>	<p>1996 State Court of Appeals, in Sterlingworth Condominium Ass'n v. DNR, reaffirms DNR's use of the Pier Planner as guidance in applying the statutory rule standards and making reasonable use designations. The Court reaffirmed the consideration of habitat, including spawning and nursery habitat and aquatic plants, as part of the public interest test under the law.</p>	<p>Feb. 2004 Law establishes an exemption from permitting for those piers meeting same dimensions in Pier Planner unless they are new piers proposed to be located in an Area of Special Natural Resource Interest (ASNRI), which includes 20 percent of waters, such as trout streams, wild and scenic rivers, other top quality waters.</p>	<p>Sept. 2005 DNR proposes pier rules that exempt new and existing piers from needing a permit if they meet same dimensions in Pier Planner and 2004 law. Existing piers a max of 8 feet wide with a deck at the end of up to 120 square feet can get a \$50 one-time registration to document the pier existed before the 2004 law went into effect. Larger existing piers required to get an individual review and permit.</p>	<p>Sept. 28, 2005 NRB approves rules that allow for more and bigger piers to be exempt from state permit than DNR's proposal, but does not allow exemptions in waters listed as Areas of Special Natural Resources. Allows new and existing piers otherwise meeting dimensions to have up to a 120 square foot deck on the end and still be exempt. Requires piers with decks of greater than 120 but less than 160 square feet to go through one-time \$50 registration to document they existed before 2004 law passed. Larger piers continue to require the individual review and permit.</p>	<p>Nov. 15, 2005 NRB reconsiders and pulls back the rules it approved in September. Says it wants DNR to bring new version of pier rules for them to consider Dec. 7, 2005</p>	<p>Nov. 22, 2005 State Reps. John Gard and Scott Gunderson propose pier legislation to exempt all existing piers from needing a permit, regardless of size and whether pier lacked permit they should have had in the first place. Would provide no mechanism for knowing which piers existed before 2004 law set sizes for exemptions. Would drastically revise longstanding density guidelines. Instead of 2 boat slips for first 50 feet of frontage and 1 for every 50 feet thereafter, legislation would allow all condo owners in a building, or all apartment dwellers in a lakefront property to have 1 boat slip, allowing very long piers to jut out into the water.</p>	<p>Dec. 1, 2005 DNR revises pier proposal to present to NRB Dec. 7. Recognizes right of pier owners to have a pier and sets uniform size standards for new and existing piers to be exempt from a permit. Grandfathers in all larger existing piers except the 1 percent with the very largest structures that are clearly not just for navigation, the Constitutionally authorized use. Largest existing 1 percent of all piers – those with decks exceeding 200 square feet -- would require review for impacts on boating, fishing & hunting, enjoying natural beauty & clean water. These structures could be found to have no impact and get their permit, or be required to downsize or otherwise change, but not be removed.</p>
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