

Chapter 1

Lake Organizations

Organizations created to help preserve and protect our lakes are not new to Wisconsin. The first ones formed in the late 1800s. Lake organizations have evolved into a few basic types over the years. Most types are voluntary, but one type called a lake district (*discussed in detail in chapters 5-6*) is not voluntary. A lake district is an actual unit of government run by the people living within the district.

Most lake organizations share the goals of preserving and protecting their lakes, but the abilities, authority and structure of the various groups can vary greatly. In this chapter, we will examine the different types of lake organizations.



A Special Trust

With so many lakes and so few people to look after them, Wisconsin has always depended on dedicated women and men willing to invest their efforts and dollars to assure a long lasting legacy of lakes. Those people willing to take on the duties of running a lake organization also take on some very special responsibilities to the citizens of this state. The waters of Wisconsin belong to all of us. Their management becomes a balancing act between what is required to assure that healthy lake ecosystems continue to exist, and the rights and demands of the public and those who own property on the water's edge.

There is a rich tradition of law known as the public trust doctrine which states that water is a public resource. The public trust doctrine is based on a body of law which establishes that navigable waters in Wisconsin are public waters to be enjoyed by all for swimming, fishing, and hunting as well as for navigation and the viewing of natural scenic beauty. The roots of the public trust doctrine can be traced back to the times of Roman law and today it is the basis for how we treat our waters. The U.S. Supreme Court has found that the people of each state hold the right to all navigable waters for their common use. Those who have decided to assist the state in managing our lakes are guided by this great trust and tradition.



What Can a Lake Organization Do?

Lake organizations, agencies, institutions and non-governmental organizations (NGOs) struggle with many issues in their continuing efforts to safeguard lakes. Today's issues can be complex, crossing political and natural

boundaries, requiring action and participation from individuals with a wide range of skills, and becoming increasingly demanding of time and financial resources. Increasingly complicated concerns require the involvement of those affected as well as the organizations and agencies appointed to deal with the issues. A lake organization can play a vital role in defining the future of your lake.

General activities for lake organizations:

- Develop a lake newsletter to keep members informed on local and state lake news
- Develop a website and an email list to keep members informed
- Hold meetings
- Identify people to speak for the group on common issues
- Form committees to research issues that may impact the lake and report on them to the group
- Survey the membership on their lake concerns and their lake use requirements
- Design educational programs for members and youth as well as those in the community that impact the lake and have an interest in the lake
- Help the membership deal with individual concerns
- Become an observer of the lake by joining the *Citizen Lake Monitoring Network*. (Equipment is free and instruction is available. Details can be found online at www.dnr.state.wi.us/org/water/fhp/lakes or by contacting the Lake Monitoring coordinator at UW-Extension Lakes, 715-346-2116)
- Monitor your boat landing for invasive species by becoming a *Clean Boats, Clean Waters* volunteer (www.uwsp.edu/cnr/uwexplakes)
- Apply for a lake management planning grant. State matching grants are available to qualified lake associations to pay up to 75% of the cost (see *Qualified Lake Associations, page 8*)
- Apply for state shoreland restoration and aquatic invasive species (AIS) grants
- Obtain a lake protection grant to purchase environmentally-sensitive areas such as wetlands. State matching grants are available to qualified lake associations and lake districts to pay up to 75% of the cost of implementing a lake protection project, including purchasing land or easements
- Communicate concerns to town and county officials and work with the local government whenever possible
- Get involved in lake issues on a state and national level. Join the Wisconsin Association of Lakes (WAL) at 1-800-542-LAKE(5253) or www.wisconsinlakes.org. The North American Lake Management Society (NALMS) at 608-233-2836 or www.nalms.org provides opportunities for citizens and scientists to work together to promote environmentally-sound policies and practices





Lake management activities for lake organizations:

- Develop a lake management plan
- Develop an aquatic plant management plan
- Develop a water recreation plan
- Contract for aquatic plant removal
- Buy and operate an aquatic plant harvester
- Improve fish habitat (with a permit from WDNR)
- Stock fish (with a permit from WDNR)
- Install and operate an aerator (with a permit from WDNR)
- Own and operate dams (with a permit from WDNR)
- Maintain lake access



Lake Associations

There are a number of types of voluntary organizations that get involved in the management and stewardship of our lakes. The oldest lake management organizations in Wisconsin are voluntary associations made up of private citizens. These voluntary groups are the most numerous lake management organizations in Wisconsin, with nearly 480 known to exist in the state. Their diversity is remarkable. Some are very informal neighborhood associations with minimal formal leadership. Others are chartered as nonstock (nonprofit) corporations and recognized by the State of Wisconsin as qualified lake associations. Lake associations can have opinions on what is done on the lake or on the land around the lake, but they have no regulatory power over any lake or land use activities.

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Unincorporated Lake Associations

Associations can be formed for any lawful purpose. Informal lake associations are probably among the earliest forms of environmental conservation organizations in the state. Some lake associations are formed as a mechanism for lakefront property owners to get acquainted. In time, these social interactions can lead to discussion of common interests and issues such as water quality, which can lead to programs and projects to protect or maintain lake quality.

These voluntary lake associations can structure their affairs as they choose. There really are no special rules governing their structure or operation. Some, but not all, adopt a charter including a statement of the organization's name, its purposes, and an outline of the governing structure. Some also adopt bylaws (*see Appendix A for model bylaws*) or rules of procedure to govern

their operations (such as Robert's Rules of Order, see www.robertsrules.com), set membership dues and provide for an election of a board of directors. Subject to the availability of financial resources, there are many lake management activities that may be undertaken by these associations, some are done alone and others in cooperation with local units of government.

Liabilities: Although they are easy to form, unincorporated associations have some significant disadvantages. One disadvantage involves exposure to risk from actions of the association. For most purposes, unincorporated associations are treated as partnerships, potentially exposing their members, directors and officers to liability in the event of damages resulting from activities of the association that cause injury or loss. Another disadvantage is the exposure of their members, directors and officers to financial and tax liabilities.

For these reasons, many lake associations incorporate under Chapter 181 of the Wisconsin Statutes, the Wisconsin nonstock corporation law. Incorporating is easy to do and not very expensive. A fee of \$35 is required with submission of the "articles of incorporation form" (*see Appendix B for a copy of the form*). Incorporation creates a "separate entity" and drastically reduces the exposure to liability for members, directors, officers and volunteers. In the event of a lawsuit, typically only the assets of the corporation are at risk.

Wis. Stat. § 181.0612

Wis. Stat. § 181.0855

Wis. Stat. § 181.0670

Unincorporated Lake Associations

Abilities:

- Require dues/raise funds
- Borrow money (loans will need to be secured by assets)
- Make contracts
- Acquire and sell property
- Sue and be sued
- Have educational programs
- Communicate with units of government & others
- Conduct lake management activities such as:
 - Monitor water quality
 - Inventory/monitor aquatic plants
 - Manage invasive/nuisance aquatic plants
 - Purchase lands to protect sensitive areas
 - Restore wetlands
 - Develop erosion control programs
 - Develop long-range lake management plans



Incorporated Lake Associations

Incorporation of a nonstock (or nonprofit) corporation is accomplished by filing “articles of incorporation.” The articles set forth the name of the corporation, its purposes, membership provisions (if any), the office address of the corporation and its registered agent, and the names and addresses of the initial board of directors. In addition, the articles may limit the period of the corporation’s existence and describe rights and classes of members or directors.

Wis. Stat. § 181.0120
Wis. Stat. § 181.0501
Wis. Stat. § 181.0601

Benefits: Nonstock corporation status provides many benefits to a lake association. Some of the most important of these relate to the personal liability of the members and officers of the corporation. Incorporating as a nonstock corporation creates a “separate entity” and drastically reduces the exposure to liability for volunteers, directors, officers and members. In the event of a lawsuit, typically only the assets of the corporation are at risk.

Wis. Stat. § 181.0670
Wis. Stat. § 181.0855
Wis. Stat. § 181.0612

Under Wisconsin law, volunteers of nonstock corporations (excluding employees) are “immune” from damages that may arise from their actions as a volunteer, although there are exceptions from this protection in the case of criminal acts, willful misconduct and other wrongdoing. The liability of nonprofit corporation directors and officers is similarly limited (subject to certain exceptions). Wisconsin law also limits the liability of nonstock corporations that own property used for recreational purposes.

Wis. Stat. § 181.0670

Wis. Stat. § 181.0855
Wis. Stat. § 181.0833
Wis. Stat. § 181.0872
Wis. Stat. § 181.0873

Wis. Stat. § 895.52

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Wis. Stat. § 181.0122

Filing: The articles of incorporation are filed with the Department of Financial Institutions (DFI). The form DFI/CORP102 is available online at www.wdfi.org/corporations/forms/corp181forms.htm (Form 102) and is to be filed with the fee with DFI, PO Box 7846, Madison, WI 53703-7846, 608-261-7577. The filing fee currently totals \$35 *(see Appendix B for a copy of the form)*.

Wis. Stat. § 181.0601

Wis. Stat. § 181.0801

Bylaws: Typical nonstock corporation bylaws include provisions specifying the operating procedures for the conduct of the corporation's business. They typically provide for membership categories and dues, election procedures and terms of office for the board of directors and officers, rights and qualifications of members, and other "nuts and bolts" procedures. Some provisions, including rights and classes of members or the number and manner of selection of directors, may be provided for either in the bylaws or in the articles of incorporation *(see Appendix A for model bylaws)*.

Qualified Lake Associations

Until the late 1980s only units of government and lake districts were eligible for state lake grants. Since 1989, certain voluntary lake associations have been eligible to receive funds through various state grant programs. Because tax funds are used to support these programs, private lake associations are required to meet specific standards in order to be eligible. Generally, these standards aim to ensure that associations are organized and operated for public benefit and do not unreasonably exclude participation. Associations that meet these standards are considered qualified lake associations. If the requirements for becoming a qualified lake association are not acceptable by the organization, it may still be worthwhile to incorporate under Chapter 181.

Qualifications: In order to be recognized as a state qualified lake association in Wisconsin, an organization must:

- Be incorporated under Chapter 181 Wisconsin Statutes for a least one year. (This is a good idea for other reasons, including the liability of the association and its officers)
- Declare in its Articles of Incorporation or bylaws that the main purpose of the organization is to support the protection or improvement of one or more inland lakes for the benefit of the general public *(see Appendix A for model bylaws)*
- Demonstrate that a substantial purpose of its past actions was to support the protection or improvement of one or more inland lakes for the benefit of the general public
- Allow any individual to be a member if they reside within one mile of the lake for at least one month each year
- Allow any individual to be a member if they own real estate within one mile of the lake
- Not have articles of incorporation or bylaws which limit or deny the right of any member or class of members to vote
- Have at least 25 members
- Require annual membership fees of not less than \$5 nor more than \$50

Wis. Stat. § 181.0721

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Wis. Stat. § 181.0302



Lake Districts

While their activities are similar, lake districts operate in a different way than lake associations. *For detailed information on lake districts, see Chapters 4 and 5.* A lake district is a specialized unit of government designed to manage a lake or group of lakes. One of the major differences between lake districts and lake associations is that lake districts have the ability to tax property within the district. Legislation allowing the formation of public inland lake protection and rehabilitation districts was enacted in 1974. Since then, over 200 lake communities have formed lake districts.

Lake districts have a unique blend of powers and governance provisions tailored to fit the needs of local lake communities. A lake district's day-to-day operations are carried out by a board of commissioners composed of elected volunteers and local officials. The financial direction of the district is determined by district residents (electors) and property owners at an annual meeting. Unlike other governmental units like towns or sanitary districts, nonresident property owners have the right to vote in lake districts.

A lake district is not a club. Unlike a lake association, a lake district is a governmental body with statutory responsibilities to the resource, local citizens and taxpayers. Like all government entities, the powers and operations of a lake district are set by law with legal responsibilities and consequences designed to ensure that the rights and interests of the public are protected.

Wis. Stat. § 33.22(1)
Wis. Stat. § 30.30(4)(a)
Wis. Stat.
§ 33.22(2)(m)

Wis. Stat. § 33.31

Wis. Stat. § 33.32



Lake Districts

Powers:

- Levy taxes and impose special assessments and special charges
- Operate water safety patrols
- Enact boating regulations
- Exercise sanitary district powers
- Be eligible for state lake grants
- Borrow money (loans will need to be secured by assets)
- Make contracts
- Acquire and sell property
- Sue and be sued

Activities:

- Monitor water quality
- Inventory/monitor aquatic plants
- Manage invasive/nuisance aquatic plants
- Purchase lands to protect sensitive areas
- Restore wetlands
- Develop erosion control programs
- Develop long-range lake management plans
- Have educational programs
- Communicate with units of government & others



Sanitary Districts

Sanitary districts are specialized units of government established by town boards. Typically, sanitary districts are established to provide sewer and water service to a community. Historically, some lake communities established sanitary districts to undertake lake management activities before the existence of lake districts. Over the years, additional powers were granted to sanitary districts. Legislation in 1996 amended sanitary district laws to allow sanitary districts to exercise the powers of a lake district if the sanitary district includes at least 60% of a lake's shoreline and if no lake district is already in existence on the lake. Today there are approximately 20 sanitary districts in Wisconsin that work with lake management issues. *For more information on sanitary districts, see Chapter 6.*

One of the major differences between sanitary districts and lake districts is their method of governance. Lake districts share governance responsibility between the board of commissioners and residents and property owners at the annual meeting. Sanitary districts are governed solely by a three member board of commissioners. Both sanitary districts and lake districts have the ability to tax property within the district. Unlike lake districts, nonresident property owners cannot vote in sanitary districts.

A sanitary district is a governmental body with statutory responsibilities to the resource, local citizens and taxpayers. Like all government entities, the powers and operations of a sanitary district are set by law with legal responsibilities and consequences designed to ensure that the rights and interests of the public are protected.

Sanitary Districts

Powers:

- Levy taxes and impose special assessments and special charges
- Operate water safety patrols
- Provide sewer/water/solid waste collection services
- Require inspection of septic systems
- Provide money for the replacement of failing septic systems
- Exercise some lake district powers
- Be eligible for state lake grants
- Borrow money (loans will need to be secured by assets)
- Make contracts
- Acquire and sell property
- Sue and be sued

Activities:

- Monitor water quality
- Inventory/monitor aquatic plants
- Manage invasive/nuisance aquatic plants
- Purchase lands to protect sensitive areas
- Restore wetlands
- Develop erosion control programs
- Develop long-range lake management plans
- Have educational programs
- Communicate with units of government & others

Wis. Stat. § 60.77

Wis. Stat. § 30.30(4)(a)

Wis. Stat. § 33.32

Wis. Stat. § 60.782



Intergovernmental Commissions

An intergovernmental commission is another possible way of managing lakes. Under the state's broad "intergovernmental cooperation law", local units of government can work together to create an intergovernmental commission. (Lake Geneva has an intergovernmental commission called the Geneva Lakes Environmental Agency). This option is rarely used because it is complex and requires broad buy-in from numerous units of government. It is mentioned here briefly and it is not an entity which would be formed by private citizens.

Wis. Stat. § 66.0301



Nonprofit Conservation Organizations (NCOs)

Wisconsin law also recognizes that certain nonprofit conservation organizations may play a role in managing lakes. These NCOs are eligible to receive funds under the Lake Management Grant Program and under the state Stewardship Fund Program if their purposes include the acquisition of land for conservation purposes and if they are recognized as federal tax-exempt organizations under section 501(c)(3) of the Internal Revenue Code. Under all of these programs, the Wisconsin Department of Natural Resources (WDNR) can award matching grants to these organizations for certain land or conservation easement purchases and for some habitat restoration activities.

Lake associations (whether incorporated or not) can qualify as NCOs if their purposes include the acquisition of land for conservation purposes and if they are recognized as federal tax-exempt organizations under section 501(c)(3) of the Internal Revenue Code.

Nonprofit Conservation Organizations

Abilities:

- Require dues/raise funds
- Be eligible for state lake grants
- Borrow money (loans will need to be secured by assets)
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Which Organization is Right for Us?

As we have seen in this chapter, there are a variety of lake management organizations. Voluntary lake management organizations include lake associations and nonprofit conservation organizations. Public lake management organizations include lake districts, sanitary districts, and intergovernmental commissions.

The type of organization for your lake is determined by many factors: the lake community's long range goals, the number of people living on and using the lake, the size and type of lake, and the degree of urgency of threats to the health of the lake ecosystem. If your agenda is broad and ambitious, the more stable funding of a public organization may be essential.

Leaders of voluntary lake associations are sometimes frustrated by the lack of participation and financial commitment from those living on the lake who are not involved. In other communities, a voluntary association has genuine advantages over a public one. Voluntary associations may be able to act more quickly than governmental bodies on some issues. In addition, some communities may be willing to support a voluntary organization rather than forming a new unit of government, particularly one with taxing power. Lakes may have both an association and a district. If you are considering establishment of a lake management organization, the following are some issues and comparisons you might want to consider.

Formation

Lake districts, sanitary districts and intergovernmental commissions are established by orders or resolutions adopted by town, county or village boards or city councils. In some cases, more than one resolution is required. Typically, these lake organizations are formed at the request of interested citizens. In many cases, a formal petition is required. Lake associations are not required to meet any formal requirements to form. Many associations do incorporate under Chapter 181 of the Wisconsin Statutes and opt to meet the standards needed to be eligible for state cost-sharing grants.

Powers

Lake districts, sanitary districts, and intergovernmental commissions are governmental bodies. They have elected or appointed leaders and adopt annual budgets. Some may levy taxes, special assessments or other charges to support their operations. Voluntary associations have no powers over their membership or others using the lake; dues are voluntary. Some associations are created mainly for social purposes. Others are highly directed organizations seeking to address issues affecting lakes.

Regulatory Authority

None of these organizations have broad regulatory authority. Instead, they rely on the cooperation of general purpose units of government (cities, villages, towns, counties and tribes) to address many of the jurisdictional issues that affect the use of Wisconsin lakes. A lake or sanitary district may enact and enforce boating ordinances if the authority is delegated by a local unit of government. A sanitary district may require the installation and inspection of private sewage systems.

Geographical Scope

Most of the issues influencing Wisconsin lakes occur in the lake, along the shores or within the lake's watershed. Ideally, a lake management organization should incorporate all of the lands within its watershed. In many areas of the state, watersheds are quite large in relation to the surface water of the lake. Lake and sanitary district organizers find it politically difficult to include territory miles from the lake even though activities there may impact the lake. Voluntary organizations also face difficulty when soliciting membership away from the lakeshore.

Boundaries

Because lake districts, sanitary districts and intergovernmental commissions are governmental bodies, they are required to have strictly defined boundaries. The state statutes provide little guidance on the creation of these boundaries for lake districts, sanitary districts or intergovernmental commissions. None are required to include the entirety of a lake, lakeshore, or watershed. All may include more than one lake. In every case, an accurate legal description of the boundary of the proposed district is required. Lake management organizations established as intergovernmental commissions operate in areas deemed appropriate by the governmental units that establish them.

Voluntary lake associations are not required to establish boundaries. Most associations include riparians and those living or owning property on the lake or within a mile of the lake. The concept of lake stewardship seems to weaken with increased distance from the lake.

Financial Fairness

Lake and sanitary districts are equipped to ensure that the costs of local lake management are equitably shared by those who benefit. Funding for intergovernmental commissions comes from the participating local units who also appoint representatives to the governing body of the commission. A voluntary organization obtains its basic financial resources from donations by its members. As a result, the benefits of its work are enjoyed both by those who have contributed and those who have not.

Public Accountability

Lake districts, sanitary districts, and intergovernmental commissions are subject to state laws protecting public access to records, meetings and decision making. All districts and commissions must give advance notice of their meetings and hold them in public places. Districts and commissions must make their records available for inspection by any member of the public. This is appropriate, because these organizations raise and expend public funds. Voluntary organizations are not subject to open meetings or public records laws.

Availability of Funding

Lake and sanitary districts, intergovernmental commissions, qualified lake associations, nonprofit conservation organizations, towns, tribes, villages, cities and counties are all eligible to receive matching funds from the State of Wisconsin.



Lake organizations can take many forms. Sometimes different forms of lake organizations exist side-by-side in a lake community. Visit with and meet your neighbors in the field of lake management, be guided by their example and experience, but do not automatically assume that their organization type can be replicated in your community. In the end, the best lake organization for your community is the one that meets your particular local needs. Whether you choose to form a public or voluntary organization, it is possible to create an organization that can address most lake management challenges.