

(5) Piers shall not unreasonably obstruct navigation or otherwise interfere with public rights in navigable waters.

(6) Piers shall not interfere with the rights of other riparians.

(7) Piers shall not interrupt the free movement of water nor cause the formation of land by deposition of littoral drift upon the bed of the water.

(8) Piers associated with marinas and other similar mooring facilities shall not extend into the water from the shoreline beyond the line of navigation unless a permit is obtained under s. 30.12 (2), Stats. Such marinas shall be open to the public. Use of the facility by the public may be conditioned only on the payment of a reasonable mooring or anchoring fee.

Note: As an example, the use of such an extended pier shall not be conditioned upon membership in a private club or organization, purchase of a parcel or property, or purchase of a boat.

(9) Piers shall not be constructed or maintained with a screen or in any other manner which would trap or accumulate aquatic plants.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81.

NR 326.05 Permits required. Riparians intending to construct solid piers, rock-filled cribs or similar types and size devices used as foundations, piers which extend beyond established pierhead lines, or piers not conforming to NR 326.04 (1) or (9), shall apply for permits under s. 30.12 (2), Stats.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81.

NR 326.06 Complaints. (1) Upon receipt of a complaint by any municipality or person under s. 30.14, Stats., the department shall investigate the pier or piers mentioned in the complaint to determine if the pier conforms with s. 30.13, Stats., and this chapter, and shall provide all known parties with the results of the investigation. The department may request such additional information as may be required from the complainant.

(2) Upon completion of the investigation, the department shall conduct a hearing under s. 30.14, Stats.

(3) The burden of proving that the pier is in violation of s. 30.13, Stats., and this chapter, is ordinarily on the complainant.

(4) This section does not limit in any manner the authority of the department to bring any enforcement action alleging that a pier adversely affects public rights in navigable waters.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81.

NR 326.07 Riparian rights determinations. (1) In response to a complaint under NR 326.06 relating to interference with the rights of an adjacent riparian, the department shall use the method outlined in this subsection which it determines most fully meets the Wisconsin supreme court ruling in *Rondesvedt v. Running*, 19 Wis.2d 614 (1962), that ". . . each must have his due proportion of the line bounding navigability and a course of access to it from the shore exclusive of every other owner, and

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that all rules for apportionment or division are subject to such modification as may be necessary to accomplish substantially this result."

(2) The alternative methods of apportionment include:

(a) *Apportionment of the line of navigation.* The general procedure for the apportionment of the line of navigation is to measure the whole shoreline of the cove or bay and the line of navigation in front of the shoreline and to apportion the line of navigation among the riparians in proportion to the length of their respective holdings on the shoreline. The area of water within which each riparian may place a pier to reach the line of navigation is determined by drawing straight lines between the corresponding points of division on the shoreline and the line of navigation.

(b) *Coterminous riparian rights lines.* Chords are drawn to connect points established at the intersection of each lot line with the ordinary highwater mark. The lines which bisect the angle formed by adjacent chords are the coterminous riparian rights lines. The extension of the coterminous riparian rights lines to the line of navigation describes the portion of the water within which each riparian may place a pier to gain access to the line of navigation. If the coterminous riparian rights lines intersect before the line of navigation is reached, another method of apportionment will be used.

(c) *Extended lot lines.* Under the extended lot line method the area of water within which each riparian may place a pier to reach the line of navigation is determined by extending the lot lines along the same alignment from the upland to the line of navigation.

(d) *Other method.* Any other method for determining the rights of riparians to gain access to the line of navigation that is compatible with the general rule adopted in sub. (1).

(3) To provide each riparian with sufficient room to place a pier and moor a boat along the common line between adjacent riparians the following technique will be used:

(a) Each riparian shall back their respective pier away from the common line or point of intersection of that line with the line of navigation in proportion to the riparian's share of the 2 adjacent shoreline lengths until sufficient room is provided to moor each riparian's boat at their respective pier and to provide safe maneuvering room for each boat to approach or leave the respective pier.

(b) If a riparian cannot move sufficiently from one side without violating the rule on the other side, then the riparian shall position the pier in that location which best satisfies the rule on both sides and each riparian shall then move far enough to the side regardless of shoreline proportions to afford the necessary clearance.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; reprinted to correct error, Register, May, 1981, No. 305.

NR 326.08 Severability. If any provision of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81.