Development around Indiana's waterways

DNR
Indiana Department
of Natural Resources

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Over the last few years there has been increased interest in communities developing along the rivers and lakes that fall within their boundaries.

- River walks, board walks and trails

- Installation or removal of in-channel structures (dams and kayak/canoe course)

- Floating structures (stages and obstacle coarse)

Permitting is often required under one of two programs administered by the DNR:

- The Flood Control Act; or

- The Lake Preservation Act.

The Flood Control Act

The Flood Control Act (IC 14-28-1) was enacted in 1945 as a way to mitigate for "the loss of lives and property caused by floods and the damage resulting from floods".

The Flood Control Act encourages wise use of the floodway to:
- Minimize increased flood levels
- Minimize injury or loss of human life
- Reduce risk to private and public property
- Minimize the loss of fish, wildlife, and botanical resources as a result of constructing in the floodway

Jurisdiction Under the Flood Control Act

The Flood Control Act requires the prior approval of the DNR, Division of Water for construction in the floodway including an obstruction, fill, excavation, or the construction of a building.
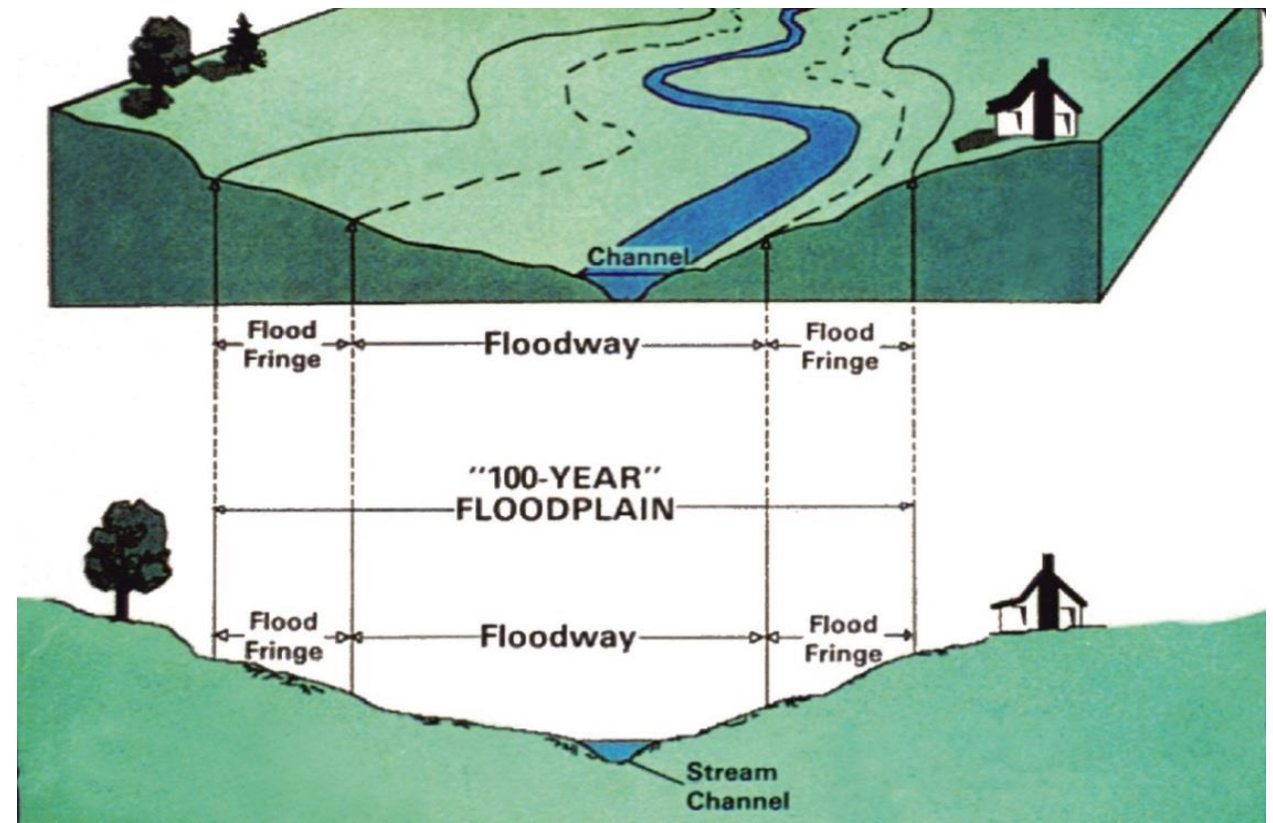
Typical examples of floodway projects subject to DNR review and approval include:

- **Fill, excavation, and/or land grading**
- **Bank stabilization**
- **Construction of bridges and private access crossings**
- **Construction or reconstruction of buildings**
- **Fencing**

Construction of new homes in the floodway is prohibited.

Floodplain = Floodway + Flood Fringe

- The state's jurisdiction under the Flood Control Act is limited to the floodway.

- A floodway exists for all waterways, even if it has not been mapped.

- If a project is proposed in an unmapped area, consultation with the Division of Water staff is advised.

Image Source: DNR Archives

Exemptions & General Licenses

Exemptions (IC 14-28-1-22)

- **Work along a stream with an upstream drainage area less than 1 mi^2**
- **State or County Rural Bridge Projects where the drainage area < 50 mi^2**
- **Certain County Drainage Board projects along streams < 10 miles in length**
- **Certain Surface Mining Activity**
- **Development and maintenance of: crops, pastures, forests, and park and recreational uses (312 IAC 10-4-2)**
- **Removal of Logjams and Woody Debris**

General Licenses (312 IAC 10-5)

- **Utility Line Crossings**
- **Wetland Restoration**
- **Outfall Structures**
- **Creek Rock Removal**
- **Recreational Prospecting (panning for gold)**
- **Removal of Logjams and Woody Debris from a Salmonid Stream or a Natural, Scenic, or Recreational River or Stream**

Lake Preservation Act

The Lake Preservation Act (IC 14-26-2) was enacted to:

- **Provide standards for the regulation of construction activities along and with Indiana's lakes; and**

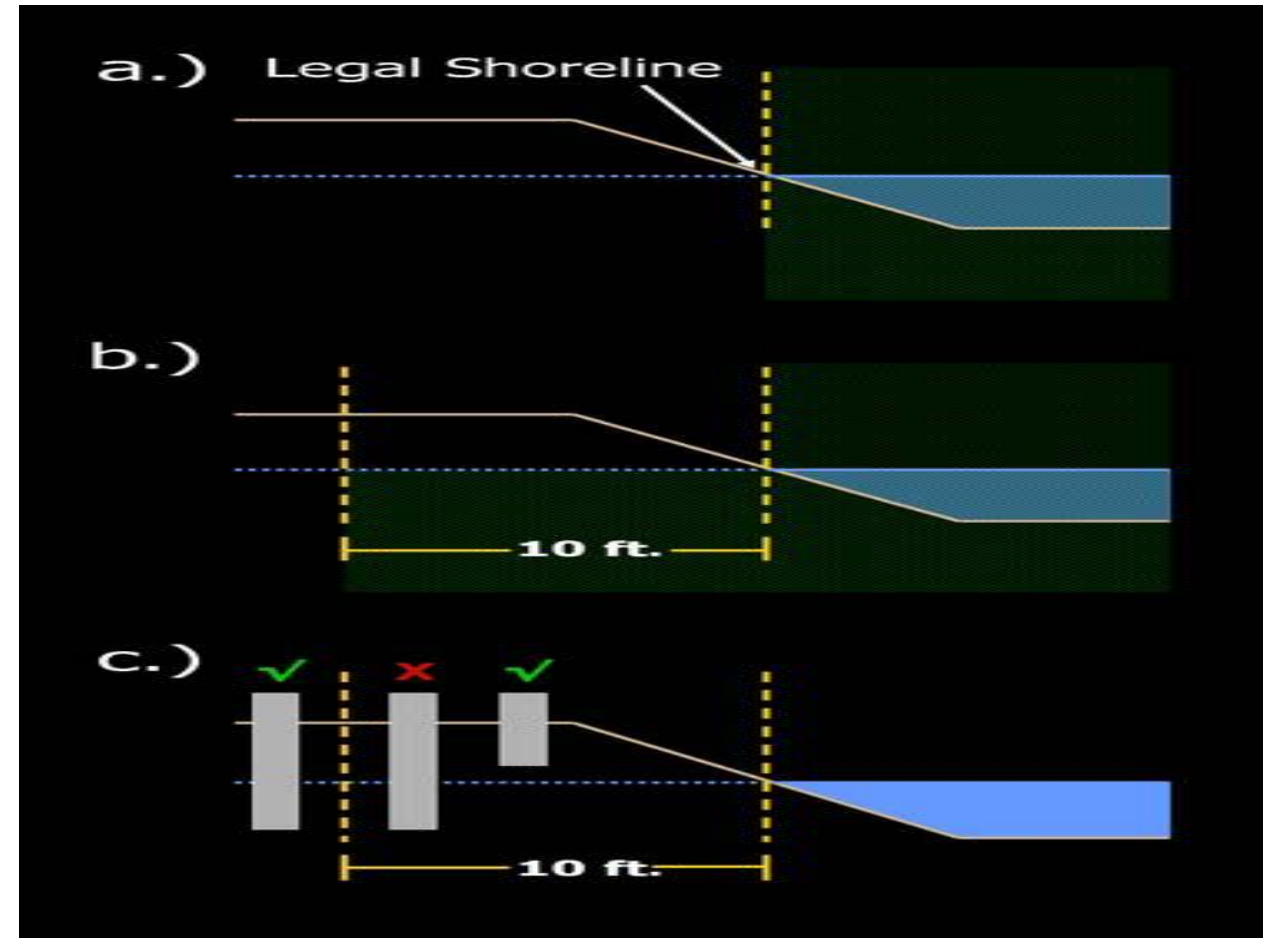- **Provide standards, with respect to activities along and within public freshwater lakes.**

Lake Preservation Act, jurisdiction

Projects that are proposed lakeward, along the shoreline, or walls landward of the shoreline within 10 feet and below the legal or normal water level of a public freshwater lake require a permit

Green √ scenario= outside jurisdiction of Lake Preservation Act

Red X = requires a permit under Lake Preservation Act

• **List of Public Freshwater Lakes can be found at www.in.gov/nrc/2375.htm**

Image Source: DNR Archives

Typical examples of projects subject to DNR review and approval include:

- **Seawalls**
- **Group piers**
- **Underwater beaches**
- **Boat ramps**
- **Boat wells**
- **Dredging**

Review Criteria

The project will be reviewed on the basis of its impacts on:

- the shoreline, water line, or bed of the public freshwater lake,

- the fish, wildlife, or botanical resources,

- the public rights for the natural resources, the natural scenic beauty, and the recreational purpose of the lake,

- the management of watercraft operations

- the interests of a landowner having property or access rights

- assessment of the above criteria includes the cumulative impacts from other projects in the vicinity

In addition, any construction, reconstruction, re-cleaning; or repair of a ditch, dam, or other project that is likely to affect a lowering of the water level of the public freshwater lake, that covers an area of at least ten (10) acres, regulated or otherwise, is prohibited.

Exemptions and General Licenses

Lakes Preservation Act and Public Freshwater Lake Rules, if project meets specific criteria listed in the rules 312 IAC 11-3

- Qualified temporary piers,
- Glacial stone refaces,
- Dry hydrants
- Aerators with conditions

Certain construction activity in Lake Shafer, Lake Freeman, and water supply reservoirs IC 14-26-2-15 & IC 14-26-2-16

Qualified temporary piers

In order for a temporary structure to qualify, the structure must satisfy each of the following:

- Be easily removable.

- Not infringe on the access of an adjacent landowner to the public freshwater lake.

- Not unduly restrict navigation.

- Not be unusually wide or long relative to similar structures within the vicinity on the same public freshwater lake.

- Not extend more than one hundred fifty (150) feet from the shoreline or water line.

- If a pier, not extend over water that is continuously more than six (6) feet deep to a distance of one hundred fifty (150) feet from the shoreline or water line.

- Not be a marina.

- Not be a group pier.

- Be placed by a riparian owner or with the written approval of a riparian owner.

Don't forget to check with our sister agencies!

Indiana Department of Environmental Management

(800) 451-6027 (toll free within Indiana)

https://portal.idem.in.gov/IDEMWebForms/question_form.aspx

US Army Corps of Engineers

- **Chicago District - (312) 846-5530**

- **Detroit District - (800) 493-6838**

- **Louisville District - (502) 315-6686**

How to contact us…

- Website: www.IN.gov/dnr/water

- Email Inquiries: ww.water_inquiry@dnr.in.gov

- Toll-free Number: 1-877-928-3755 or 317-232-4160

- Ext. 1: Technical Services Section provides daily assistance and guidance on regulatory and floodplain information