

Dam Transfer Application Instructions

The Wisconsin Department of Natural Resources helps protect your rights in public waters as well as public safety, by ensuring adequate planning and design of projects affecting fish and wildlife habitat, water quality and natural scenic beauty. This is done through permit and plan approval requirements for individual water projects. Chapter 30 and 31 of the Wisconsin Statutes require written permits for certain activities on or near a watercourse.

S.710.11, Wis. Stats. states that a person may not accept transfer of ownership of a specific piece of land on which a dam is physically located unless they comply with s. 31.14(4), Wis. Stats. which requires proof of financial responsibility to repair, operate and maintain a dam for at least a 10 year period.

A municipally-owned dam may not be transferred to a private individual or foreign corporation, and no dam may be transferred to a foreign corporation according to s. 31.21, Wis. Stats.

The transfer process is slightly different for dams that are located on navigable streams than for those on non-navigable streams. Note that the determination of “navigability” is defined by today’s standards rather than standard existing at the time of original dam construction.

- For dams on non-navigable watercourses, the process is governed only by s. 31.14(4), Wis. Stats., and s. 710.11, Wis. Stats. After the new owner demonstrates financial capability of ownership, the Department issues a “transfer approval.”
- For dams on navigable streams, the process is also governed by s. 31.185, Wis. Stats. and s. 31.21, and is a waterway permit. In addition to financial capability requirements, this process includes a public notice and potential for public hearing before the dam is transferred to a new owner.

Prior to applying for this permit:

- Be aware that it can often be 60 to 90 days or more from the time you initiate the transfer process until the issuance of the transfer. The Department recommends that you discuss likely timeframes with the Water Management Engineer (WME) assigned to your county (refer to <https://dnr.wisconsin.gov/topic/dams/regionalContacts.html>) prior to setting property purchase closing dates.
- For more information, select “Transfer of Ownership” from the Dams section on the website, <https://dnr.wisconsin.gov/topic/dams/damTransferOwnership.html>.
- The following fact sheet explains the responsibilities in owning a dam in Wisconsin, <https://dnr.wisconsin.gov/sites/default/files/topic/Dams/documents/FSOwnerResponsibility.pdf>.
- Contact your county, city, or village zoning department to find out if your project site is either in a mapped wetland or floodplain and if local zoning restrictions could affect your project.

To apply:

- Apply online using our online ePermitting System at <https://dnr.wisconsin.gov/permits/water>. This webpage will provide instructions on how to create a WAMS account, which you will need in order to access the system.
- Include all required attachments. Each document must be less than 15 megabytes and our online system offers a help guide to reduce file sizes.

- Permit processing review times begin when all of the required application materials are received by the DNR. As noted above, the process can take some time, and ensuring that the application is complete can help make timelines more predictable.
- The department may require additional information to evaluate the project.
- If you have questions regarding your application, contact:
 - The local Water Management Engineer (WME) for your county, refer to <https://dnr.wisconsin.gov/topic/dams/regionalContacts.html> for information about dams.
 - The local Water Management Specialist (WMS) for your county, refer to <https://dnr.wisconsin.gov/topic/Waterways/contacts.html> for information about navigability or wetland impacts.

Please note, prior to starting any work at the project site, you are responsible for:

- Obtaining all necessary local (e.g. city, town, village or county) permits
- Obtaining U.S. Army Corps of Engineer permits or approvals
- Obtaining any other applicable state permits

Public notice newspaper posting:

- As part of the process transferring ownership of dams on a navigable waterway, publication of a Class 1 public notice is required.
- The department will prepare the notice.
 - You may choose to work directly with your local newspaper to publish the notice. In this case, the newspaper will bill you directly for the cost of publication.
 - If you would like to delegate to the Department the required task of publishing in the newspaper, please select and pay the additional fee in the ePermitting process.
- If requested by either the applicant or any interested member of the public, a **public hearing** may be required.

Recorded transfer documents:

Once the Department has issued the approval for the dam transfer, the new owner will be required to notify the Department of their acceptance of the dam in 30 days. The notification will also need to include documentation that the transfer documents have been recorded with the appropriate Register of Deeds in connection with the land described.

Paper copies of application materials:

After the application has been submitted electronically, the local Water Management Engineer may request paper copies of the application documents.

Required attachments - Forms or documents you upload in our online ePermitting System

1. **Application form** - A complete application form "Water Resources Application for Project Permits (WRAPP)" (Form 3500-053) will be filled out and signed electronically online within ePermitting.
2. **Application fee** - Payment needs to be submitted through the ePermitting System as part of the application process. A list of fees can be found at https://dnr.wisconsin.gov/sites/default/files/topic/Waterways/WW_Permit_Fees_July_1_2023.pdf

3. **Ownership documentation** - (i.e. copy of deed, land contract). The owner also needs to have adequate access (ingress/egress) to the dam to allow for ongoing operation, maintenance, and repairs. Please provide documentation such as a fee title ownership or a permanent easement for access. We suggest you seek the advice of legal counsel in preparing an easement.
4. **Survey map** that shows the property boundaries and location of the dam. The map should show that you have legal access to all portions of the dam.
5. **Photographs** that clearly show the on-the-ground conditions of the existing project area. Remember that too much snow cover or vegetation may obscure important details. If possible, have another person stand near the project area for size reference. Color images are preferred.
6. **Transfer agreement** - Provide documentation signed by both parties agreeing to the transfer of the dam. Please indicate the method of land transaction. Note that the land contracts shall be fully executed before the dam transfer can occur. A sample transfer agreement can be found here: <https://dnr.wisconsin.gov/sites/default/files/topic/Dams/documents/SampleTransferAgreement.pdf>. The Department suggests you seek the advice of legal counsel prior to using the document.
7. **Dam inspection report** - A **field inspection** is required to substantiate financial responsibility calculations (see Item #8, below) by determining needed repairs and establishing a time limit for completion of the repairs. You will need to hire a Professional Engineer registered in Wisconsin, with experience in dam construction and repair, to complete the field inspection and prepare a cost estimate for any repairs. We suggest that you contact the local Water Management Engineer for more information about the field inspection. Responsibility for repairs may be negotiated between the buyer and seller. Any actual work to be done on the dam would be reviewed and approved under a separate application process than the transfer of ownership (see <https://dnr.wisconsin.gov/topic/dams/damRepairReconstruction.html>).
8. **Proof of financial responsibility** - Prospective new dam owners are required to demonstrate the ability to operate and maintain the dam in good condition for a period of at least 10 years. A document containing instructions on calculating financial capability can be found at <https://dnr.wisconsin.gov/sites/default/files/topic/Dams/documents/FinancialCapabilityForDams.pdf>. Financial capability can be demonstrated through a number of means, including:
 - An escrow agreement, sample can be found at: <https://dnr.wisconsin.gov/sites/default/files/topic/Dams/documents/SampleEscrowAgreement.pdf>
 - A letter of credit, sample can be found at: <https://dnr.wisconsin.gov/sites/default/files/topic/Dams/documents/SampleLetterofCredit.pdf>The Department suggests that you seek the advice of legal counsel prior to using these documents, and that you first submit the financial responsibility calculation to the local Water Management Engineer. After the amount has been approved, then you can submit the documentation to demonstrate financial capability directly to the local Water Management Engineer.