

A MICHIGAN BEACHCOMBER'S GUIDE TO THE GREAT LAKES

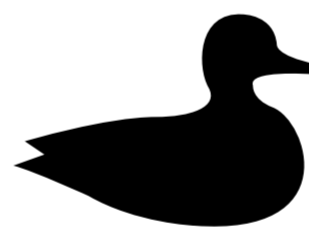


WHAT IS ALLOWED?

Access along the shore for walking and to enjoy the uses listed below.



**Boating & other
watercraft activities**



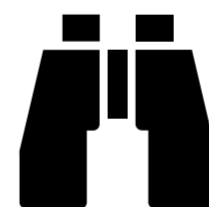
**Hunting for
waterfowl**



Fishing



Swimming



Other recreation

WHAT IS PROHIBITED?

Use of privately owned land above the high water mark is not protected. While the Michigan Supreme Court did not define the limitations, it did recognize that not every use of shorelines is protected. As long as you are using the shoreline below the OHWM to engage in protected public trust activities, riparian landowner rights are respected.

This brochure is for educational and general information purposes only and does not constitute legal advice. Readers should consult qualified counsel for assistance.

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Is Michigan's Great Lakes Shoreline Open to Public Access?

YES, thanks to the public trust doctrine.

The public trust doctrine holds that water and other special public land or natural resource commons like navigable waters and lands underlying them and parklands, are held in trust by government in perpetuity for public use and enjoyment. These public uses include boating, navigation, fishing, swimming, drinking water, recreation and access to enjoy these protected uses. As trustee, the government has an affirmative to protect these commons from sale, impairment or interference.

A 2005 Michigan Supreme Court ruling affirmed the public's rights.

In *Glass v. Goeckel*, the Court held that the public trust doctrine in navigable waters protects the right of the public to walk on all Great Lakes shore lands, from the water's edge to the ordinary high water mark (OHWM). The OHWM is "the point on the bank or the shore where the presence or action is so continuous as to leave a distinct mark." Because Great Lakes water levels naturally fluctuate approximately 6 feet, the amount of dry land available for public access will vary from narrow to wide.

Similarly, a recent Indiana Supreme Court decision affecting the 45 miles of shoreline in Indiana also recognized the right of citizens access below the ordinary high water mark under the public trust doctrine in the lakebed of Lake Michigan. The Ohio Supreme Court has adopted a similar rule, but did not define the OHWM, leaving open the possibility that citizens must keep their toe in the water or at least walk within the wet sand zone.