



The Chicago Lakefront: Protected, Yet Precarious

Executive Summary

THE LAKEFRONT: CHICAGO'S GREATEST CIVIC ASSET

With all of its diversity, Chicago can seem like a composite of many communities at once, an amalgam of ethnic enclaves, political camps, and even a crosstown baseball rivalry. But Chicagoans have found common ground at the lakefront. The lakefront has been Chicago's point of both physical and cultural convergence, a mecca for its civic soul.

Fueled by that collective spirit, the lakefront blossomed into the city's greatest asset. With the longest, continuous access to a waterfront of any city in the US, residents and visitors alike enjoy miles of parks, trails, beaches, and cultural offerings. The Chicago lakefront is not just a natural treasure and environmental resource, but a powerful economic driver that draws investment to the city.

Yet, the intrinsic value of Chicago's largest open space is seemingly taken for granted today. As the city considers multi-billion-dollar proposals that have the power to reshape the future of the shoreline from north to south, the value of protecting and improving lakefront open space should be central to the public discourse.



openlands

For far too long, we have governed the lakefront through a piecemeal approach, where serial debates over individual development proposals lead to chronic legal disputes. As a result, champions of lakefront protection are forced to respond defensively, and the onus for upholding Chicago's heralded commitment to its shoreline has frequently rested on the courts.

As one of the organizations that advocated for the creation of *The Lakefront Plan of Chicago* in 1972 and the adoption of the Lake Michigan and Chicago Lakefront Protection Ordinance (LPO) in 1973, Openlands sees an urgent need to once again put open space preservation and long-range planning at the forefront of conversations about land use along the lake. That tradition, after all, has been a trademark of Chicago, providing the blueprint for what has become one of the world's most iconic waterfronts, while also contributing to the city's economic expansion.

This report seeks to improve residents' understanding of the history and major legal protections governing the entire lakefront. Through it, Openlands hopes that Chicagoans will become re-empowered to protect the lakefront's promise now and for future generations.

CHAMPIONING THE LAKEFRONT THROUGH VISION, PLANNING, AND LEGAL PROTECTION

Over the last two centuries, credit for Chicago's unobstructed lakefront can be traced to the individuals who stood up to defend it as a public benefit; the seminal court decisions that led to the creation and interpretation of its key legal protections; and visionary planning and consistent stewardship by government agencies that helped embed the principle of a public lakefront in the city's culture and civic spirit.

In the late 19th and into the 20th centuries, Aaron Montgomery Ward was one of the first people to stand up for the lakefront, using the public dedication doctrine to stretch the legal protections of "an open, clear, and free" lakefront as far as it could go—to today's Grant Park. Daniel Burnham and his renowned 1909 *Plan of Chicago* created the vision for a lakefront of parks and open spaces that the Chicago Park District followed by infilling and protecting much of the shore, creating spaces of respite and recreation of limitless value today. In the 1960s and 1970s, the environmental movement led to seminal court decisions and laws that created our modern system of lakefront governance.

Since then, numerous public debates have ensued over building on the lakefront. From the Chicago Children's Museum and the Lucas Museum, which both succumbed to opposition, to the successful bid to build the Obama Presidential Center, the battles over these proposed projects illustrate the complex yet crucial legal protections that safeguard the lakefront. They also illuminate how the current culture of lakefront governance leads to defensive, rather than proactive, public debates on how to improve public lands.

ANALYSIS OF KEY LAKEFRONT PROTECTIONS: GAPS AND OPPORTUNITIES

In its analysis, Openlands reviewed many legal protections that safeguard the lakefront. While some laws protect certain areas, there were only two that could be used to guard against intrusive development on a majority of the lakefront: the public trust doctrine and the Lake Michigan and Chicago Lakefront Protection Ordinance (LPO).

The Public Trust Doctrine

The judicial ratification of the public trust doctrine in 1892 established an expansive legal concept that certain natural and cultural resources are to be preserved for the public benefit. Often cited in lawsuits or the threat of litigation against proposed developments—the public trust doctrine does, in theory, serve as a strong defense for a majority of the lakefront.

Yet, over the last century, with changes in time and cultural temperament, the courts in Illinois have wavered in their interpretation of the law. The doctrine's legal scope and purpose has shifted from first protecting public access to navigable waters to now protecting public resources through the ownership of public institutions like the Chicago Park District. Governance responsibilities are similarly convoluted. While the Illinois legislature has the decision-making authority over public trust lands, the courts have given that authority varying levels of deference.

While lakefront advocates can and should continue to use the public trust doctrine in defense against intrusive development, its complicated history and interpretation in Illinois make it perhaps too malleable a tool to govern land use consistently and difficult to reform.

The Lake Michigan and Chicago Lakefront Protection Ordinance

The creation of the LPO was spurred in response to alarming lakefront developments in the 1960s, including Lake Point Tower, McCormick Place, and the southern extension of DuSable Lake Shore Drive through Jackson Park. The LPO is a municipal law that governs the Lakefront Protection District which includes public open space along the shoreline, the immediate offshore area, and a sliver of park adjacent private land along the entirety of the lakefront. This ordinance is perhaps the best deterrent to intrusive development. But more than 50 years after its creation, *The Lakefront Plan of Chicago* associated with the LPO has never been updated, and the ordinance itself only rarely and inconsequentially so.

In its analysis, Openlands found that the subjective decision-making process in the LPO led to gaps in planning, environmental protection, and public transparency. The ordinance refers to the *Lakefront Plan* and adherence to its 14 policies, and yet the *Plan* is not publicly accessible. It is also unclear whether the *Plan* is shared with decision-makers or agency staff to inform their review process.

While one of the ordinance's main objectives is to protect nature and wildlife along the shoreline, environmental reviews occur only at the discretion of the Department of Planning and Development. Looking at the original ordinance from 1973, environmental investigation was a required part of the process, but not today. The review process is similarly lax, with applicants responding to the 13 LPO purposes and 14 *Lakefront Plan* policies without any ordinance-related design or use benchmarks to meet.

Meanwhile, inadequate notification requirements inhibit the public from learning about the implications of potentially intrusive developments that could create precedents and indelibly shape their lakefront.

RECOMMENDATION: STRENGTHENING THE LPO CAN ENSURE BETTER PLANNING AND PROTECTION OF THE LAKEFRONT

As a municipal law that governs Chicago's entire shoreline, strengthening the LPO is the best way to preserve and enhance lakefront open space in the future. To prevent intrusive development proposals from clearing the review process, recommended amendments to the ordinance include:

- **Requiring periodic updates to *The Lakefront Plan of Chicago* and the Lakefront Protection District.** Periodic updates should be required for *The Lakefront Plan of Chicago* and the Lakefront Protection District. The plan must be easily accessible to the public to ensure that city planning aligns with Chicago's founding quest of a lakefront that is "forever open, clear, and free." Additionally, it should reflect contemporary perspectives and address current issues, such as updating the district boundaries to ensure equitable protection of land along the shoreline.
- **Establishing design and use standards for objective review.** The LPO should establish clear design and use standards that applicants must meet in order to receive approval. These standards will ensure a more objective and consistent review process.
- **Mandating environmental impact studies.** The Department of Planning and Development should be required to review the environmental impact of applications, including their effects on wildlife, air and water quality, and other relevant factors.
- **Ensuring healthy public engagement and discourse.** The LPO should require more time for the public to be notified of hearings and to review proposal material. It should also expand notification procedures to increase the reach of notifications.
- **Establishing higher standards for large developments.** This reform would establish higher standards and a more thorough review and public engagement process for large developments within the Lakefront Protection District. It would align with the existing requirements already in place for historic and river districts.

In 1999, Chicago Tribune architecture critic Blair Kamin won a Pulitzer Prize for his series, *Reinventing the Lakefront*. In it, Kamin writes, "The lakefront and its parks represent a legacy of incalculable value, a testament to visionaries such as Daniel Burnham, who, more than 100 years ago, recognized that public spaces made better democracies, better citizens and better lives. It is remarkable that what Burnham and others conceived so long ago still serves us in so many ways."

Today, it is imperative to build on that legacy by strengthening protections against intrusive development that would build over it. Openlands hopes this analysis will refocus civic discourse on the value of public open space on the lakefront. With public engagement leading the way and environmental protections at the forefront, Chicago's greatest civic asset can continue to thrive for generations to come.